

Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice

Recommendations from
The National Council of Juvenile
and Family Court Judges
Family Violence Department

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Table of Contents

Preface

Introduction

Chapter 1: Guiding Framework

Principle I: Guiding Principles

1. Safety, well-being, and stability for children and families
2. Children in the care of their non-offending parent(s)
3. Community service systems with many points of entry
4. Differential response to families

Chapter 2: Foundation Principles and Recommendations

Principle II: Collaborative Leadership

5. Community coordinating mechanism
6. Expansion of expertise in community service coordination efforts
7. Need for communities to study and adapt efforts

Principle III: Expanding and Reallocating Resources

8. Significant additional resources

Principle IV: Respect and Dignity for All People

9. Fair and capable service to children and families of diverse backgrounds
10. Collaborative relationship with diverse communities

Principle V: Building Internal Capacity

11. Cross-training
12. Building staff capacity to attend to diverse communities

Principle VI: Information Disclosure

13. Development of delineating memos
14. Privileged communication protections for battered women

Principle VII: Information Gathering and Evaluation Systems

15. Evaluation and research studies

Chapter 3: Child Protection Systems

A. Introduction

Principle VIII: Taking Leadership to Improve Community Capacity

B. Child Protection Services

16. Availability of resources in community and development of new responses
17. Collaboration to monitor effectiveness of community programs

Principle IX: Improving Agency Capacity

18. Development of procedures, systems, protocols, and training

Principle X: Changing Agency Policy and Worker Practice

19. Children in the care of non-abusing parents
20. Separate service plans for adult victims and perpetrators
21. Assessment of harm to and development of service plans for children
22. Avoidance of blaming strategies
23. Potentially dangerous or inappropriate interventions
24. Avoidance of placements with perpetrators

C. Community Treatment Programs

25. Procedures for confidential screening and providing help
26. Need for workers to spend adequate time with victims
27. Need for parenting programs to reexamine procedures, policies, and curricula

Chapter 4: Domestic Violence Services for Families

- A. Introduction
 - Principle XI: Taking Leadership to Improve Community Capacity
- B. Domestic Violence Service Organizations
 - 28. Joint service models
 - 29. Joint protocols
 - 30. Improved access to services
 - 31. Cross-training
 - 32. Community dialogue about the prevention of family violence
 - 33. Economic, legal, emotional, and social supports
- Principle XII: Building Capacity Within Domestic Violence Organizations
 - 34. Staff training
 - 35. Battered women who maltreat their children
 - 36. Child-friendly environments
 - 37. Well-trained, full-time advocates
 - 38. Boys over the age of 12, substance abuse, and other mental health problems
 - 39. Community-based services to women referred voluntarily and involuntarily
- C. Programs for Perpetrators of Domestic Violence
 - Principle XIII: Interventions with Perpetrators
 - 40. Need for reexamination of procedures, policies, and curricula
 - 41. Funding, service, outreach, and monitoring strategies
 - 42. Leadership to improve coordination and monitoring
 - 43. Cross-training

Chapter 5: Courts

- A. Introduction
 - Principle XIV: Foundation Changes
- B. Juvenile Court Systems
 - 44. Sufficient judicial and staff resources
 - 45. Need to treat each case with the highest priority
 - 46. Adoption of recognized best practices
 - 47. Training
 - 48. Conditions for referral of parties to mediation
 - 49. Assessment of proposed caretakers
 - 50. Extension of reunification time limits
 - 51. Collaboration with other courts
 - 52. Exchange of information concerning family members
- Principle XV: Taking Leadership
 - 53. Leadership role within the court system
 - 54. Collaboration to determine needed community resources
 - 55. Need for specific powers to ensure safety
 - 56. Use of judicial powers to ensure adequate efforts by social services
 - 57. Orders where there is domestic violence
- Principle XVI: Improving Court Practice
 - 58. Inclusion of domestic violence in petitions or pleadings
 - 59. Jurisdiction on basis of witness domestic violence
 - 60. Removal of abuser before removal of child
 - 61. Separate service plans
 - 62. Batterer intervention programs
 - 63. Identification of extended family members and resources
 - 64. Avoidance of couples counseling
 - 65. Safe visitation and visitation exchanges
 - 66. Court appointed attorneys or GAL
 - 67. Domestic violence victim advocate

Endnotes

Appendix A: Definitions

Appendix B: Federal Legislation

Appendix C: Curricula, Protocols & Publications

Preface

Although researchers have known for years that domestic violence and child maltreatment often coexist in families, only recently have communities and individuals from all professions begun to question the wisdom of responding to these forms of violence as if they were separate, unrelated issues. Across the country, many courts, policymakers, and service providers are struggling to find answers to such questions as: How can child protection services work together with domestic violence service providers to enhance the safety of multiple victims in violent homes? How can juvenile courts protect children when their mothers are being battered without re-victimizing the mother? How can communities protect battered mothers and their children and hold batterers accountable for their violence?

The Project

These and other equally challenging issues led the National Council of Juvenile and Family Court Judges (National Council) to initiate a project to develop guidelines for practice and policy in cases where domestic violence and child maltreatment overlap. The support for this project came from the Office of Child Abuse and Neglect, Children's Bureau, U.S. Department of Health and Human Services, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, David and Lucile Packard Foundation, and Johnson Foundation.

Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice is one of a series of National Council Publications addressing family violence, courts and communities. In 1990, the publication of Family Violence: Improving Court Practices focused upon the ways in which courts could be improved through better policies and practices. Then, in 1992, the release of Family Violence: State of the Art Court Programs highlighted model domestic violence programs across the country and enabled communities to learn of best practices in other jurisdictions. The Model Code on Domestic and Family Violence was completed in 1994 and represents the state of the art in domestic violence legislation and policy around the country. In 1998, the National Council published Family Violence: Emerging Programs for Battered Mothers and Their Children, a companion to this publication focusing on programs offering innovative services to battered women and their children.

Recognizing at the outset that this project would require perspectives from different social and legal systems, the National Council named to its Advisory Committee a diverse group of professionals from the courts, child welfare and domestic violence services, federal agencies, and the academic community. Because court systems can change only when there is strong judicial leadership, judges were key participants in all aspects of this project. Judicial leaders who participated full in the development of these guidelines included Judge Richard J. Fitzgerald, Judge Ernestine S. Gray, Judge William G. Jones, and Judge Dale R. Koch.

The Process

Over a series of three meetings, spanning a period of seven months, the Advisory Committee met to discuss and sometimes debate, draft recommendations developed by the authors, Susan Schechter and Jeffrey L. Edleson. Before the end of the first meeting, the Advisory Committee called for the formation of Task Forces to develop recommendations on such topics as culturally competent practice, battered mothers who abuse their children, batterer accountability, battered immigrant women, supervised visitation, and the Indian Child Welfare Act. Through two more lengthy meetings and many months of continuous consultations among Advisory Committee members, the book took shape.

The Book

This book is intended to offer communities a guiding framework to develop interventions and measure progress as they seek to improve their responses to families experiencing domestic violence and child maltreatment. It is intended to present leaders of communities and institutions with a context-setting tool to develop public policy aimed at keeping families safe and stable.

The book is broken into five chapters. Chapter 1 articulates an overall principle of safety, well-being, and stability for all victims of family violence and the need to hold batterers accountable for their violence. In Chapter 2, a series of principles are developed to guide communities in structuring their responses to families experiencing dual forms of violence. Chapters 3, 4, and 5 focus on specific recommendations for the child protection system, the network of domestic violence service providers, and the juvenile or other trial courts with jurisdiction over child maltreatment cases.

Although this book often discusses battered mothers, the authors and advisors recognize that men are battered also. National statistics indicate that approximately 5 percent of all domestic violence cases involve men as victims. Because domestic violence or battering is a pattern of behavior primarily carried out by

males, and because the overwhelming number of primary caretakers for children are female, the terms battered woman or mother are used frequently in this book to refer to the adult victim of domestic violence.

Our deepest gratitude is extended to everyone involved with the project. The commitment of the authors, Susan Schechter and Jeffrey L. Edleson, the energy and enthusiasm of consultant, Lonnie Weiss, the guidance of the Advisory Committee and Task Force members, the vision and support of the funders, the graphic design of Larry Winkler, and the hard work of the Family Violence Department of the National Council all contributed to the success of this publication.

Judge Leonard P. Edwards, Co-Chair
Carol W. Williams, DSW, Co-Chair

Introduction

During the latter part of the twentieth century communities have begun to establish norms that make violence against women and the maltreatment of children unacceptable. This development of new and, in some cases, reinvigorated norms, creates altered visions of responsibilities. Public and private institutions – the police, courts, and social service agencies – and communities are declaring that adults and children have a right to the resources and responses that bring safety and stability to their lives. The National Council of Juvenile and Family Court Judges (National Council) affirms this right to safety and stability for every maltreated child and adult in the United States and calls on communities and institutions to join in creating necessary changes.

Although two decades of research have confirmed that adults and children often are victimized in the same family, little was made of this finding until recently. For years, in fact, most communities treated the abuse of a woman and the maltreatment of a child in the same family as separate phenomena having little to do with each other. Only recently have the prolonged and menacing impacts of multiple forms of violence within a family come to the attention of communities.

Definitions of domestic violence and child maltreatment are wide-ranging and often debated. Domestic violence is defined here as a pattern of assaultive and coercive behaviors, often including physical, sexual, and psychological attacks, as well as economic coercion, that adults and adolescents use against their intimate partners. Similarly, definitions of child maltreatment encompass a wide range of behaviors, including physical and sexual assaults, neglect, and emotional injuries inflicted on children¹. Historically, two distinct intervention systems were created – one to offer domestic violence services and legal protections and another to provide assistance and protections for abused children and their families – each with its own law enforcement and judicial mandates, institutions, and funding.

Now, however, communities are asked to confront a new and compelling set of facts:

- 1) adult domestic violence and child maltreatment often occur together and
- 2) new responses are required of *everyone*, if violence within families is to stop.

Domestic violence perpetrators do not victimize only adults. Recent reviews of more than two decades of studies have revealed that in families where women are abused, many of their children also are maltreated. Varying by samples selected and types of data gathered, the majority of these studies have found that a substantial proportion, ranging from 30 to 60 percent, of battered mothers' children are maltreated.²

Children who are abused physically or sexually tend to exhibit more developmental, cognitive, emotional and social behavior problems, including depression and increased aggression, than other children.³ Each year, the reported number of neglected children far exceeds the number of physically or sexually abused children. Those who are neglected physically or emotionally or denied necessary services also may exhibit a host of social and behavioral problems.⁴ Evidence clearly points to the fact that these experiences may influence victims' lives well into their teen and adult years.

Children who are not themselves maltreated often suffer from the effects of observing and hearing their mothers being abused. Peled's study of pre-adolescent children who witnessed violence provides compelling testimony.⁵ One 12-year-old girl recalled the experience in the following way:

"He picked her up off the bed, they were fighting, and then he picked her up off the bed and threw her against the wall"⁶

A ten-year-old boy in the same study described hearing but not seeing a violent event:

"He went downstairs, so did Mom. And on the steps he turned back and said something to Mom but I don't know. And he went downstairs and they, I heard all this banging and the floor, the floor was, just kept on, there's so much, there's like bangs in the floor and on the walls and stuff like that. But, and then there was all this yelling."⁷

A wide range of studies has shown that some children who witness adult domestic violence suffer considerably. These studies indicate that, on average, children who experience domestic violence exhibit higher levels of childhood behavior, social, and emotional problems than children who have not witnessed such violence.⁸

These documented harmful effects to child development have led many to conclude that if a child resides in a home where domestic violence is occurring, the child is in immediate danger and requires child protection services. Research in this area is still in its infancy, however, and a large percentage of child witnesses in these studies did not show elevated levels of developmental problems. The impact of witnessing violence on children is moderated by a number of factors, with some children showing great resilience in the face of

adversity.⁹ Each child's response to domestic violence, therefore, should be assessed carefully, and harm established clearly, before agencies and courts determine which interventions are required.

Like their children, many battered women experience multiple physical and emotional injuries.¹⁰ Men who batter often carry out repeated physical and sexual attacks, they may harass and stalk their partners, following them to work and school. Tjaden and Thoennes' national study of violence against women found that 81 percent of the women who were stalked by a current or former husband or cohabiting partner also were assaulted physically by the same partner.¹¹ Often perpetrators threaten to kill themselves, their wives, or their children, or to kidnap and disappear with the children, if the women ever should leave them. Living with a batterer is described by many victims as an experience that ranges from "walking on eggshells" to "living in a war zone."

These troubles are compounded for battered adults with children. The dilemmas are excruciating. One battered mother, Lucille, explained it this way:

My three-month-old woke up in the middle of the night with an ear infection and temperature. My husband screamed, "Shut the baby up, I'm trying to sleep." I was trying to comfort her, but nothing worked. He got up, took her from my arms, and whacked her. She had a black-and-blue rear end. Now what should I do? I thought, "If I taker her to the doctor, they'll take her away from me because I'm the mother and I allowed this." My husband told me, too, "No matter what you say, I'm going to tell them that you did it."¹²

A battered woman with children faces two sets of painful circumstances. First, she has to calculate how to protect herself and her children from physical dangers created by her partner. However, battered mothers also confront a second set of risks, sometimes more frightening than the first. If, for example, a woman considers a separation from her partner to protect herself and her children, where will she find housing and money to feed her family? What will she do if her partner reports her to child protection services? What will happen to her children's health insurance if she leaves? This second set of factors, or life-generated risks, enters into each battered woman's calculation of her children's safety. Deciding to leave her relationship does not guarantee the elimination of these risks; in fact, it may bring them to the fore.¹³

For women from diverse backgrounds, these life-generated risks may be further complicated. How do they maneuver their way through legal or service systems if their English language skills are limited? Will authorities be less sympathetic to their safety needs or those of their children? Will discrimination or a lack of accessible resources limit their options for safety and support?

Many people frequently ask, "Why do battered women stay when this places them and their children in jeopardy?" This question misses the way battered women calculate their risks and make decisions about their lives. The questions a battered woman may ask herself are more complete, such as: "If I leave and live on less money, my children will have to live in a more dangerous neighborhood, and should I do this to them?" "Should I leave and risk losing my children in a custody battle with their abusive father?"¹⁴

Most battered women care deeply about their children's safety and want to protect them from physical assaults and from the harms of poverty and isolation.¹⁵ Creating safety for children requires communities to respond to eliminate the two sets of risks that children and their mothers face. A child's safety and well-being are, in fact, often dependent on his mother's safety.

Overlapping domestic violence and child maltreatment in a family raises major challenges. What can be done to stop a batterer from assaulting a woman and harming children? How can victims in a family be protected? What should be done when a battered mother wants to protect her child but is unable to do so? What should child protection workers do when a batterer is back in the house and children are not safe? Can children be protected without re-victimizing and blaming their non-abusive mothers? How will responses change when a mother is battered by her adult partner and she also is maltreating her children? Can she simultaneously be supported and protected from harm and be held responsible for child maltreatment and for changing her behavior? None of these questions leads to easy or simple answers, yet many communities are searching for solutions that address these complexities.

To date, community institutions and families have been offered few resources and tools to find answers. The task of this document is to offer a more comprehensive set of responses to eliminate or decrease the enormous risks that individual battered mothers, caseworkers, and judges must take on behalf of children.

As communities work to improve their responses to families experiencing domestic violence and child maltreatment, the national Council offers a framework for developing interventions and measuring progress. In the absence of such a guiding framework, it is all too easy to rush to make changes and adopt piecemeal, and potentially harmful, public policies. To avoid this problem, the national Council presents a summary of the guiding framework that emerged through the deliberations on this book. The National Council

recommends that the leaders of communities and institutions use the principles and recommendations in this document as a context-setting tool to develop public policy aimed at keeping families safe and stable. Although each of the systems discussed in the later sections of this book – child protection services, domestic violence programs and the juvenile court system – has unique legal mandates and responsibilities (see Appendices), each also is capable of adopting frameworks and practices to create family safety and well-being.

A host of complex problems must be resolved in each of these systems if communities are to achieve safety for women and children. While all of these issues cannot be addressed comprehensively in this volume, at least they are identified, their impact on families dealing with adult domestic violence and child maltreatment is considered, and a framework for addressing them is provided.

In the following sections of this document, recommendations focus on three primary systems: the child protection system, the network of community-based domestic violence programs, and the juvenile or other trial courts which have jurisdiction over child maltreatment cases.¹⁶ Many other systems, including law enforcement, child welfare, faith institutions, schools, health care systems, extended families and community-based agencies, contribute to important ways to the solutions outlined below, and many of the recommendations contained in this document are relevant to these systems as well.

This document focuses exclusively on solutions for families in which both domestic violence and child maltreatment are occurring. Many other forms of family violence exist, and they most likely co-exist with abuse of women and children in families. It is, however, the intersection between adult domestic violence and child maltreatment that is highlighted in this document.

Chapter 1 outlines an overarching principle of safety, well-being, and stability for all victims of family violence and of holding perpetrators accountable. This general principle and the recommendations that flow from it are the bedrock on which the rest of this document is built. Chapter 2 then further develops a series of principles to guide communities in structuring responses to families in which both domestic violence and child maltreatment occur. The principles and recommendations outlined in these first two chapters apply to all systems and set the overall foundation for subsequent chapters. Following these foundation chapters, the document is divided into specific sections focused on recommendations regarding child protection services, domestic violence programs, and juvenile courts.

Chapter 1 – Guiding Principle and Recommendations

Principle I.

Leaders of the community and its institutions should join together to establish responses to domestic violence and child maltreatment that offer meaningful help to families, including protections for all victims from physical harm; adequate social and economic supports for families; and access to services that are respectful, culturally relevant, and responsive to the unique strengths and concerns of families. Simultaneously, the community should hold violent perpetrators responsible for their abusive behavior and provide a variety of legal interventions and social services to stop this violence.

This first principle is an overriding one from which flow most other principles and recommendations in this document. It establishes a basic framework for what follows and is essential to the successful implementation of all other principles and recommendations. It focuses on the community institutions' responsibility to collaborate for safety and support of all victims and to hold perpetrators accountable. The following four recommendations focus directly on how to implement this guiding Principle.

Recommendation 1.

Child protection services, domestic violence agencies, juvenile courts¹⁷, and community-based services should design interventions to achieve three outcomes: to create safety, enhance well-being, and provide stability for children and families.

To date, the community has relied on child protection services, shelters for battered women, the police, and courts to create safety for abused women and their children. Often these interventions are offered to families after they have experienced years of violence; sometimes the services bring too little, too late, especially for those children who must be removed from their parents' care. To make safety and stability a more meaningful possibility for families requires community institutions and their leaders to take more active responsibility for family safety.

Every community institution has a role. For example, mental health centers, health clinics, and substance abuse agencies have the capacity to screen for and assess violence and develop safety plans with families. Mental health providers can be available to respond to trauma for the many victims who are living with constant fear and anxiety. Housing agencies have the capacity to rehabilitate, or set aside, apartments for families in danger. Administrators of public welfare programs and directors of welfare-to-work agencies can develop programs to create safety and self-sufficiency for battered women.

Safety from physical harm, however, is only one part of family well-being. Well-being and stability additionally require that families have their basic human needs met.¹⁸ Every community working to end family violence should consider an audit of its responses. This audit might be achieved by the community asking itself the broad question, "Do our interventions make it possible to carry out the core goals of safety, well-being, and stability for children and families?"

Then, the community should rate its progress using some of the following indicators.

Community Resource Indicators:

- Is there adequate and safe long-term and crisis housing for families in danger?
- Do battered women and men who batter have access to economic supports and services?
- Are adequate, respectful, and culturally appropriate treatment services available, as needed, to adult and child victims and for perpetrators?
- Are there adequate and culturally meaningful support, advocacy, and crisis services for women who are battered?
- Are health services available to all victims who need them?
- Are there support and educational groups and mental health services for child witness to violence?
- Are there accessible and culturally appropriate intervention programs for men who batter? Do these programs include content about parenting and responsible fathering?
- Do substance abuse providers assess for and intervene in violence?
- Are substance abuse treatment beds available when they are needed for parents in danger?

- Are services specifically designed for adolescent victims or youth who commit violence against intimate partners or family members?
- Are law enforcement and court practices and policies in place to protect those in danger?
- Are agencies and courts sufficiently protecting family members' privacy while simultaneously allowing for the exchange of information to coordinate interventions for families?

Community Norm Indicators:

- Are leaders, including those representing public and private institutions and community groups, involved in establishing norms and practices to eliminate family violence and to support healthy relationships?
- Do community residents know how to respond to friends and family members in danger? Are they comfortable talking about family violence?
- Do clergy, teachers, coaches, elected officials, and other leaders speak out against family violence and on behalf of violence-free families?
- Are diverse individuals and communities – including gay and lesbian residents, disabled people, and ethnic and religious groups – engaged in the community dialogue about eliminating violence?

In this vision, adults are responsible for the safety of children and for the safety of their partners, and the community is responsible for providing the resources and responses to make safety a real possibility.

Although domestic violence and child maltreatment affect families of all races and classes, certain women, including battered immigrants, may be more vulnerable when faced with violence. For example, battered women who live in poverty are particularly vulnerable to losing their children when the community fails to provide basic safety and support services. Because of the lifetime limits on the receipt of welfare, communities soon may encounter more families exposed to violence who are without access to services or economic supports.

Women and children from diverse racial and ethnic backgrounds also may be more vulnerable to involvement in the child protection and juvenile court systems. A lack of culturally relevant prevention and early intervention programs, poverty, and disproportionate reporting and substantiation may be contributing factors. In such instances, the resolution of the situation does not rest solely with child protection agencies, domestic violence programs, or juvenile courts. Rather, communities must consider how their network of programs and policies differentially affect women and children from all communities.

To avoid the creation of a child protection system that simply removes more and more children for their own safety, three core values must guide the development of interventions in the community: creating safety, enhancing well-being for children and adults, and building permanency and stability for children. These goals require communities to offer more basic supports and resources to all needy families in order to remove the risks faced by victims of domestic violence and child maltreatment.

Recommendation 2.

As a way to ensure stability and permanency for children, child welfare administrators and juvenile court personnel should try to keep children affected by maltreatment and domestic violence in the care of their non-offending parent (or parents), whenever possible. Making adult victims safer and stopping batterers' assaults are two important ways to remove risk and thereby create permanency for children.

There is general agreement that children function best if they can remain safely in their families. It is particularly shortsighted to remove children from the care of their battered mothers without first trying to remove or change the source of the domestic violence risk, the batterers.

To link the safety of children to the safety of their mothers is the goal, although it may not always work in practice. Some battered mothers, for example, seriously maltreat their children or remain in violent relationships that are dangerous to their children despite repeated efforts to provide safety resources. Some batterers may not stop their violence despite intervention. In these cases, increasing the mother's safety may not enhance the child's. Obviously, when this occurs, the primary and pressing task must be child protection. However, in many cases, trying to make mothers safe does make children safer and offers children their best hope for stability.

To translate this vision into practice requires shifts in traditional practices. Historically, mothers often have been held responsible for a batterer's violence against them and their children. They may lose their children for failing to protect them from a domestic violence perpetrator. As Lucille, the woman quoted in the Introduction, noted when she described the black-and-blue marks that her husband inflicted on her daughter, "If I take her to the doctor, they'll take her away from me *because I'm the mother and I allowed*

this." (Italics added). Blaming a battered mother for being abused, for not leaving the domestic violence perpetrator, or for not stopping his violence, is simply counterproductive. The battered woman cannot change or stop the perpetrator's violence by herself. If she does not have adequate support, resources, and protection, leaving him may simply make it worse for her children. The battered woman and her children need the community's help.

Instead of placing the sole burden on adult victims, workers in community agencies need additional tools and resources to offer meaningful help to families experiencing domestic violence and child maltreatment. There are two types of interventions that help battered adults and remove risk to children exposed to domestic violence. One group of interventions seeks to remove the risk caused by the domestic violence perpetrator. These include arrest of the assailant, batterer intervention groups, protection orders removing the batterer from the home, court monitoring of compliance with service and counseling plans, substance abuse treatment, responsible fatherhood classes, and referrals for jobs and training. The other type of intervention creates safety and stability for the mother and children. These include the provision of housing and support services, transportation, childcare, job training, child support, carefully crafted custody and visitation orders, and help from battered women's advocates and support groups.

Interventions to support and protect battered women and to end batterers' violence can be effective ways to keep children safe and ensure stability. The National Council recently has published a book reviewing many of the country's most successful programs aimed at supporting and protecting battered mothers and their children.¹⁹ These programs are lodged in a variety of settings and have, to varying degrees, documented their successes. For example, Advocacy for Women and Kids in Emergencies (AWAKE) is a project for battered women with abused children at Children's Hospital in Boston.²⁰ According to a follow-up study of a small sample of mothers who received AWAKE's help, 80 percent reported that they and their children were safe and together as a family after receiving hospital-based domestic violence advocacy services.²¹

Recommendation 3.

The leaders of public child protection services, community-based child welfare agencies, and domestic violence programs need to create a community service system with many points of entry in order to provide safety and stability for families experiencing domestic violence and child maltreatment. This system should have the following major characteristics:

- a. Services are provided as soon as problems are identified and in settings most appropriate for the family.
- b. All service providers are trained to respond meaningfully to the safety of multiple victims within a family.
- c. Services are offered to victims respectfully and without blame.
- d. Services are designed to minimize the family's need to respond to multiple and continually changing service providers.
- e. Service providers are taught how to collaborate with other providers, community groups, and residents on behalf of their clients.
- f. Services are offered in culturally appropriate and effective ways and in settings comfortable to the family,
- g. Community leaders and elected officials provide adequate resources to allow service providers to meet the family's needs and prevent out-of-home placement of children.

These recommendations echo those recently reaffirmed in publications by the national Association of Public Child Welfare Administrators²², and by the Child Welfare League of America²³. Each document calls for a system that ensures child safety, recognizes the importance of family, and asks public child welfare agencies to collaborate with others to create an integrated and coordinated network of prevention, early intervention, and treatment services for families. Unfortunately, families all too often receive few services until after the court has adjudicated children as dependent. This is often too late, especially for families experiencing domestic violence and child maltreatment.

The provision of front-end, community-based services - to protect victims; to help them find safe housing, jobs, and childcare; or to heal from trauma - may eliminate the need to call the child abuse hotline, file dependency petitions, or remove children from the care of their mothers. Additional services for fathers, including batterer intervention programs and social and economic supports, also may help some men reduce or end their violence and allow them to stay with their families or, if they must leave, help them to parent their children in more responsible, less abusive ways.

Recommendation 4.

The leaders of public child protection services, community-based child welfare services, and domestic violence agencies should design a differential response to the diverse range of families experiencing domestic violence and child maltreatment²⁴. This differential response system should be guided by the following ideas:

- a. Communities should design service systems that entitle any adult or child victim of violence to receive help with or without the opening of a child protection case. Families with less serious cases of child maltreatment and domestic violence should be able to gain access to help without the initiation of a child protection investigation or the substantiation of a finding of maltreatment.
- b. Because domestic violence encompasses a wide range of behaviors – from the extremely dangerous to the less serious – families require a range of interventions, some of them voluntary and some mandated. To create safety and stability for families requires careful assessment of risk and the capacity to make differential responses.

Often the child protection system has a “one-size-fits-all” approach. This means in some jurisdictions that domestic violence automatically is considered to pose a serious risk to the child and to warrant the opening of a child protection case. In still other jurisdictions, domestic violence rarely is considered to present a child protection risk. In either circumstance, the actual risk posed by domestic violence is not assessed adequately, thus leading to arbitrary decisions about when and whether intervention is needed. In a more flexible system, assessments of a family’s risks, strengths, and protective factors would be conducted, and those families posing less danger to children could be helped through a system of community care. More dangerous cases would proceed through a child protection system or dependency system. In either scenario, families would receive domestic violence services to remove risks to children.

Some systems appear to be moving in ever more inflexible directions, especially concerning children who have witnessed domestic violence. For example, a few states are considering legislation that makes the witnessing of any domestic violence *per se* a form of child abuse. Although it may be harmful to children to witness assaults against their parents, it is unnecessary to rewrite child protection statutes or to enhance criminal penalties for committing domestic violence in the presence of a child. Current statutes provide communities with adequate mechanisms to intervene to protect children at serious risk of harm from domestic violence perpetrators. Additional statutes would remove the discretion that child protection workers, judges, and domestic violence service providers require if they are to determine risk soundly and best design responses to meet the needs of children and their families. Rather than create additional laws, communities must allocate new resources and build new, collaborative policies and practices to keep battered adults and their children safe and stable.

Many battered women who have not abused their children are terrified to admit that they are victims of violence, or that their children have witnessed it, for fear of losing custody of their children. Offering earlier intervention for women and children in less dangerous cases, without having to file child maltreatment reports or dependency petitions, would make it more likely for women to acknowledge the dangers that they and their children face and to accept help.

Some battered women face only the problems that violent partners create for them and their children; these include assaults, stalking, threats, and loss of income and housing. These women may have no additional pressing problems that pose risks to their children; for example, they do not maltreat their children or seriously abuse substances. These women do not necessarily belong in a child protection system. For them, a community service system would be an ideal alternative. In Michigan, for example, many battered women are referred directly from domestic violence shelters to family preservation and support services, bypassing a formal entry into the child protection system, unless the mother actually poses risks to her children. This approach avoids using child abuse findings and dependency proceedings as a way of obtaining help for children.

In other families, women and children are abused by violent partners, but the mothers have additional problems, such as substance abuse. In still other families, women are battered and also maltreating their children. Again, a careful assessment is called for to determine risk to the children. In some cases, the provision of early intervention services or ongoing, non-coercive community interventions could remove risks. Other families will require child protection services case filings and juvenile court intervention. In either scenario, services to remove the risks posed by domestic violence perpetrators should be offered at the earliest moment of intervention.

Finally, there are cases in which battered women refuse help or, after help is offered, decide to stay in relationships with partners who pose serious risks both to the women and to their children. In these cases,

children may need to be removed from the family. Domestic violence services for the adult and child victims and for the perpetrators should continue to be offered.

The diversity of cases suggests that there is no “one-size-fits-all” service plan to impose on every adult victim with maltreated children. Rather, each adult victim should have the opportunity to develop safety plans, with an advocate’s help, that take into account her and her children’s needs and strengths and an assessment of risks. Mandating a mother to go to a shelter or obtain a protection order against her will, as a way to try to ensure child safety, will fail in many cases. Some communities lack shelters; others limit the stay to 30 days, which is too brief for some women. Some batterers increase their violence when their partners get protection orders; others refuse to obey court orders to stay away from their homes. Some women will lose their rent money, and therefore their housing, if their partners are forbidden to live in the home under the provisions of a protection order.

Rather than impose one formula on every case, courts and community agencies should provide battered mothers with independent advocacy and support resources to help them develop a set of strategies to reduce or eliminate the particular risks they and their children face. These plans will include strategies to respond to physical danger and meet basic human needs, strategies which are developed in the context of available community supports and services and consider the victims strengths and resources. Safety planning should be available for women who are leaving, returning to, or staying in their relationships. Only then can child protection agencies and the juvenile courts determine whether safety plans adequately protect children.

Fathers or adult partners who batter women and maltreat children also require a differential response from the child welfare system and the juvenile courts. Some men may want to remain involved with their families. The women and children in the family may want the men’s continued involvement. In these cases, the risks that the batterers pose to their family members must be assessed. These men may respond positively to the services of a batterer intervention program; they may benefit from involvement in fatherhood or parenting programs, and in job training initiatives. If these men seriously engage in the work of a batter intervention program, complete it, and change their behavior, they may be able to stay with, or be reunited with their families.

Other men who batter may desire ongoing involvement with their children, but either they or the children’s mothers may want no further contact between the adults. Again, these men may benefit from attending batterer intervention and parenting programs. A careful assessment of the risk they pose to the children and adult victims must be made, along with an assessment of their progress, or lack of it, in changing abusive behavior. Visitation and custody plans must take into account the safety needs of adult and child victims.

In still another scenario, the batter – either the children’s father or a partner of the mother – has been violent, and the mother wants no continuing relationship with him. Child protection services and the courts should monitor carefully the perpetrator’s behavior. In cases where the perpetrator has the right to request visitation and child custody, assessment of the extent and impact of the abuse and domestic violence on the children and their mother must be conducted carefully. The ongoing risks posed by the perpetrator and his history of violence must be taken into account in crafting safe custody, visitation, and termination of parental rights decisions. Courts also should consider safe ways of terminating the parental rights of a batterer whose violence continues to place the family at risk, while maintaining the parental rights of a non-offending parent.

Families experiencing domestic violence and child maltreatment require communities to develop a broad panoply of services and legal interventions for a widely diverse group of people. The task is simultaneously complicated and delicate. Service providers will work with families in which there are multiple victims and sometimes multiple perpetrators. A father may both assault his wife and his children and abuse substances. Or, a battered woman may neglect her children and abuse substances. A battered woman may hate the violence her partner commits against her, yet desperately want him to stay in her life – in that way, her children have a father. Family violence always happens in a context in which human beings have complicated feelings for and attachments to each other.

As communities respond to family violence, some of it deadly and all of it serious, they will need to develop far more resources and many new responses. At the same time, they will have to ask the people whom they serve to teach them more about what works to keep families safe.

Chapter 2. – Foundation Principles and Recommendations

Principle II.

Child protection services, domestic violence agencies, juvenile courts, and neighborhood residents should provide leadership to bring communities together to collaborate for the safety, well-being, and stability of children and families experiencing domestic violence and child maltreatment.

This chapter builds on Principle I and the four recommendations in Chapter 1. Described here are six practical principles and several recommendations designed to assist communities in implementing strategies to restore safety, well-being, and stability to families in which both domestic violence and child maltreatment occur. The chapter begins with a focus on community leadership and the resources required to support collaborative and well-informed practice. It continues with a series of principles and recommendations about information sharing among institutions, data collection, and evaluation needs of the field.

Recommendation 5.

Every community should have a mechanism to bring together administrators and staff from a variety of agencies, as well as representative community members and service consumers, to close the gaps in services, to coordinate multiple interventions, and to develop interagency agreements and protocols for providing basic services to families experiencing both child maltreatment and domestic violence.

No one program has the resources or expertise to develop a comprehensive response to families experiencing domestic violence and child maltreatment. These families often experience other problems too, such as poverty, poor housing, lack of transportation, substance abuse, and mental illness. The administrators and staff of child welfare services, domestic violence agencies, and juvenile courts all have definitive roles to play in a coordinated response to these families. The degree to which agencies and courts can be effective depends in large part on their abilities to connect families with the expertise and resources of each other's programs and those of the local community.

In addition, many families affected by domestic violence and child maltreatment find themselves in numerous systems at the same time. They may have an open case in juvenile or family court, a protection order hearing pending in domestic relations court, and a charge pending in criminal court. They may have orders from one court that are contradicted by the orders from another. Or their welfare worker may require their attendance at a job-training site on the same morning that the juvenile court wants them to appear for a psychological evaluation. Their lack of appearance at the job site may result in their being sanctioned off welfare. Although the families are involved in multiple systems and often are required to coordinate many interventions, the agencies themselves face no such mandate. Child protection agencies, domestic violence programs and the courts together must take the lead in coordinating this response.

The lack of coordination in domestic violence and child maltreatment cases also may create significant risks for victims. If a police officer or a judge lacks information about a prior assault and protection order, for example, an offender may be released unwittingly and attack his family members again. Many programs for men who batter complain that the courts fail to monitor the compliance of the offender with his treatment program, and adult and child victims are harmed as a result.

Recommendation 6.

Existing community service coordination efforts should be expanded to include active involvement of domestic violence victim advocates, child protection workers, and community residents.

A number of promising collaborative models exist which should be replicated and enhanced in order to address the particular needs of families experiencing multiple forms of violence. These include community partnerships, coordinated community responses, and community task forces or coordinating councils.²⁵

Existing efforts should not be duplicated if they can be expanded to include either domestic violence or child maltreatment expertise. For example, local child protection teams should invite domestic violence victim advocates to become members, and domestic violence coordinating councils should include active representation from local child protection agencies. In communities with family assistance teams or similar

groups that include, for example, family support workers, drug and alcohol counselors, and housing and employment specialists, the teams should be expanded to include domestic violence victim and perpetrator service providers and child protection staff.

State and county child and adult fatality review teams also should be expanded to include domestic violence service providers, child protection workers, and law enforcement officers who specialize in domestic violence and/or child maltreatment cases. A variety of other entities, such as the emerging panels set up to review state efforts concerning the Child Abuse Prevention and Treatment Act (CAPTA), welfare reform planning bodies, and coordinated efforts around the Family Preservation and Support Act (FPSA), all need to examine multiple forms of violence in families. Panels such as state Commissions on Women, Task Forces on Gender Bias in the Courts, Child Abuse Coordinating Councils, state Violence Against Women Act (VAWA) Councils, and other policy making bodies also should include the active representation of domestic violence victim advocates, child protection workers, and community residents.

In many places, the voices and involvement of community residents still are missing. Without resident involvement, agencies lose the chance to learn about and build upon community strengths. Agencies also lose important suggestions about how to design social support systems and services that are culturally meaningful and effective within neighborhoods. Church members, parent group leaders, recreational center staff, and neighborhood business people all may have important lessons to teach about reaching families at risk and helping them stay safe and stable.

Recommendation 7.

Communities around the country should study and adapt efforts that integrate child welfare, domestic violence, and juvenile court responses.

A recent publication by the National Council offers insights into the many innovative ways in which communities across the country are developing solutions to fill gaps.²⁶ For example, the State of Massachusetts has developed a Domestic Violence Unit within its child protection services. Eleven domestic violence specialists now consult with child protection workers throughout the state.²⁷ In Miami-Dade County's Dependency Court there are advocates working with battered mothers who come to the court as a result of their child's dependency case.²⁸ In Michigan, the state's family preservation program works with women and children in domestic violence shelters to provide intensive services and safety planning for the period following shelter residency.²⁹

Securing an adequate array of services often may provide a family with the necessary support to prevent out-of-home placement. Community collaboration efforts should determine whether victims and perpetrators of domestic violence with child maltreatment reports can secure adequate drug and alcohol treatment, appropriate domestic violence services, and health and welfare services. To help ensure such access, every community should establish and fund joint case consultation or should make available domestic violence, child protection, health, welfare, and substance abuse specialists to assist each other. If specialized services are lacking, the community has a responsibility to identify and train a core group of people to provide assistance to their families.

Principle III

Local, state, and federal governments and agencies should expand significantly and reallocate existing resources in order to create safety, well-being, and stability for families experiencing violence and child maltreatment.

Very few formal collaborations currently exist among child protection services, domestic violence programs, juvenile courts, and community agencies and residents. To build these collaborations requires resources. Once these collaborations are underway, they will pinpoint major gaps in community services requiring additional resources in order to reduce risks to children and to create safety and stability for families. Even if new resources are not available immediately, collaborative efforts still must be undertaken. As Betsy Cole, CWLA Senior Fellow, has stated, "A lack of resources is not an excuse for inaction but a demand for creativity."³⁰

Few advocacy services for battered women exist in the child welfare system or in the juvenile courts. Little information exists on services for children in shelter settings. Many rural counties are still without any basic

services for battered women and their children; in some rural states, one domestic violence program often serves families from five or six counties.

Recommendation 8

The services recommended in this document require the expenditure of significant additional resources including:

- a. funding to place within the courts and child protection services battered women's advocacy and support services that help families secure safety, transportation, and stable income and housing;
- b. funding for pilot projects that offer assistance to families experiencing less dangerous domestic violence which does not require child protection workers to take such steps as making a finding of neglect against a battered mother;
- c. funding to locate family support services in domestic violence agencies;
- d. funding for support, counseling, and treatment services for every victim of domestic violence and child maltreatment who needs or requests such services;
- e. funding to develop additional educational content about child maltreatment and responsible fathering for the batterer intervention programs that serve maltreating fathers and boyfriends.
- f. funding to provide training about families experiencing domestic violence and child maltreatment to judges, lawyers, guardians, court clerks, domestic violence staff, child protection workers, mental health professionals, family support workers, batterer intervention program staff, and tribal and community representatives;
- g. funding to create in diverse communities and poor neighborhoods a basic network of domestic violence crisis intervention and support programs for women and children and services for men who batter – these services currently are inaccessible or unavailable to many communities;
- h. funding to develop and support information gathering and evaluation strategies designed to document the process and impact of program and system change.

Principle IV.

Child protection services, domestic violence agencies, and juvenile courts should treat all people who come before them with respect and dignity.

Social agencies often focus on the perceived deficits of their clients. How these deficits are defined and judged often depends on worker and agency beliefs regarding such factors as class, race, ethnicity, and gender. As a result, clients who are perceived to be different, or who are not well understood, are treated poorly by those in authority.

Improved response to and support of families from diverse cultural backgrounds by programs and courts should lead to improved outcomes for those families. Although definitions of culturally competent practice may vary, it is defined here as the ability of practitioners to function effectively in the context of cultural differences.³¹ Competent practice requires sensitivity to the particular needs of individual families and an understanding of the relevance of culture in forming and resolving the family's problems.³²

As part of developing responsiveness to individuals and their families, agencies and courts should pay particular attention to developing broad knowledge about and practice skills for working with families from diverse communities, including families of color, members of Native American nations and communities, low income families, people who come from other countries and speak diverse languages or follow different traditions, families with gay, lesbian, bisexual or transgender members, and persons with disabilities.

Recommendation 9

Cultural competence requires agency leaders to make an ongoing commitment to fact-finding in order to determine whether children and families of diverse backgrounds are served fairly and capably by their agencies in the reporting and substantiating of child maltreatment; in the filing of dependency petitions and foster care placements; and in the responses of shelter providers, police, and the courts to domestic assaults and child maltreatment.

Cultural competence is not achieved once and forever. Policies and practices must be examined continually to ensure that they are appropriate and that they contribute to successful outcomes. One way to achieve this goal is through ongoing monitoring to determine whether culturally responsive practices are operating effectively.

Patterns of reporting, substantiation, and out-of-homes placement in child protection cases and patterns of shelter and service use in the community should be examined regularly. The location and accessibility of services, the availability of basic resources such as housing and transportation, and service outcomes also should be monitored. Monitoring also should answer such questions as: What support do children and families from diverse backgrounds need to avoid entering the child protection and juvenile court systems? What community strengths and cultural values that foster safety can child protection agencies, domestic violence agencies, and juvenile courts build upon? What has caused distrust between specific communities and services or courts? What actions are needed to address these issues?

Agencies' physical environments and materials (e.g., brochures and form letters) also should be reviewed continually. Physical environments should be welcoming and exhibit evidence of diverse communities' participation. Linguistic and cultural barriers should be removed for all people seeking access to services and legal protections. Standards, procedures, and resources for the use of interpreters should be established in all settings.

Recommendation 10

Child welfare agencies, domestic violence programs, and juvenile courts should develop meaningful collaborative relationships with diverse communities in an effort to develop effective interventions in those communities.

Collaborative links with diverse communities should transform the services provided by social agencies so that they become sensitive to these communities' needs and competent in their interventions. Links should include cross-training, interagency referral protocols, and contracts with community-based programs to provide services to families experiencing adult domestic violence and child maltreatment. Collaborations should include ongoing dialogues with key informants and residents of specific communities about the cultural and legal definitions of abuse and about how to keep family members safe without sacrificing the community's mores.

Cultural sensitivity is not a reason to countenance abuse of partners or children. All cultures have prohibitions against committing violence against family members, and these standards require recognition and support. Some would argue it is necessary to accept violent behavior when it is considered a norm of a particular culture. This is a misunderstanding of cultural competence. Rather, those community leaders who condemn violence against women and children need to be supported.

Additionally, for some women in poor communities, especially non-English speaking immigrant women, services are inaccessible. The lack of safe space, combined with the fear of formal helping systems, makes it extremely difficult for these women to protect themselves and their children. To make safety a real possibility for families with diverse backgrounds requires the involvement of the community in the design and placement of services, the training of workers within various systems, and the careful monitoring of case outcomes. Such collaboration also should lead to the design of more effective family support programs and to additional services offered by residents and professionals from diverse cultural and linguistic groups.

Child welfare agencies, domestic violence programs, and juvenile courts should aim to develop organizational environments that are welcoming and accessible to diverse communities. Striving to recruit, hire, and support volunteers, direct service and administrative staff who represent diverse communities is a key to creating a culturally responsive organization.

Principle V.

Child protection services, domestic violence programs, and juvenile courts must be committed to building internal capacity to respond effectively to families in which dual forms of maltreatment exist.

The recommendations made in this document require a concerted effort to expand current agency and staff capacity. All partners in coordinated interventions must commit to ongoing resource and information sharing

and to the development of new staff skills and capacities. Capacity building efforts are most successful when they are guided by agency policy changes.

Recommendation 11.

Every community must cross-train its child welfare, domestic violence and juvenile court system personnel and provide written materials to them on identification, assessment, referral and safety interventions with families experiencing child maltreatment and adult domestic violence. Every community must ensure that all service providers understand their obligations under the Indian Child Welfare Act (ICWA) and the protections of the Violence Against Women Act (VAWA).

Cross-communication and training are the foundations on which successful collaborations can be built. In states and communities where successful collaborative ventures have been undertaken, significant effort has been devoted to overcoming initial mistrust and miscommunication through cross-training opportunities.

Every program must ensure that all supervisors and workers are trained adequately in domestic violence and child maltreatment assessment and intervention. The content of training and materials should include information on adult-to-adult domestic violence³³, child maltreatment³⁴, and related issues³⁵, when appropriate. Given worker turnover in many agencies, such training should be provided on an ongoing basis and over an extended period of time.

Trained staff should include family support and preservation workers, judges and judicial officers, court-based and independent evaluators, social service staff, guardians *ad litem* (GAL) and Court Appointed Special Advocates (CASA), tribal services, foster care review panel members, law enforcement officers, visitation center staff, battered women's advocates, and batterer intervention program staffs.

"First responders" should be trained, including fire and EMT professionals, teachers and school personnel, childcare workers, clergy, volunteers, defense attorneys, and health and mental health care providers. Finally, child welfare agencies, domestic violence programs, and justice systems should require, as part of contracts to private agencies, that these agencies train their staffs in domestic violence and child maltreatment assessment, intervention, and case monitoring. Referrals and contracts should be made contingent upon service providers' meeting this requirement.

Training is most effective when a clear agency policy and practice protocol have been established first. Cross-training results in the personnel in each agency understanding the other agencies' mandates, roles, and strengths; and it is often conducted by bringing staff from different agencies together in the same training program. It can be very advantageous to have a "peer" trainer, for example a judge, involved in judges' training. Methods such as joint case consultation or "case-shadowing", where a staff member from a child protection agency spends time in a domestic violence shelter and vice versa, also have proven effective.

New capacity should result in specific, measurable competencies that are achieved at the individual and organization level and result in better case practices and services delivered by child protection agencies, domestic violence programs, and the courts. Measurement of improved capacity in these areas should be included in agency evaluations and in job performance evaluations.

Recommendation 12.

Agencies and courts should build staff capacity to attend more competently to clients from diverse communities and income levels.

Capacity building also must pay ongoing attention to the underlying and even unintended biases often resulting in poor treatment of people from diverse ethnic and racial backgrounds and from low-income groups. Staff of child welfare agencies, domestic violence programs, and juvenile courts should be required to participate in professional development that connects the goals of cultural responsiveness to agency goals, mandates, and specific job responsibilities. This process should include the assessment of individual training needs, the provision of related training and skill building opportunities, and an evaluation of the effectiveness of this process in improving staff skill and agency effectiveness. Agency administrators should support training and mentoring of staff who wish to develop specialized competency in serving specific populations. Programs should have designated cultural consultants on staff or accessible to them to help workers respond sensitively to families from communities of color. Capacity building should result in the

development of cultural competence at the agency or court level³⁶, and in the development of more responsive individual practitioners³⁷.

Principle VI.

When making decisions and policies about information disclosure, juvenile courts and child protection agencies should balance (a) the need for information required to prove the occurrence of child maltreatment and to keep children safe with (b) the need of battered women to keep information confidential in order to maintain and plan effectively for their safety.

Collaboration, capacity building, and the development of mutual trust among community partners require information sharing. As large systems continue to upgrade and integrate their client databases, however, the danger grows that sensitive information will be disclosed and will risk a victim's safety. For example, family violence information now is being collected routinely to establish continued eligibility for welfare benefits, but its disclosure to perpetrators may endanger adult and child victims³⁸

How each system maintains and shares information with others should be planned carefully. There is an inherent tension between agencies regarding the disclosure of certain information. For example, in some states, domestic violence victim advocates maintain privileged communication with battered women³⁹ Where such privilege is not granted to advocates, some domestic violence programs have avoided keeping detailed records out of fear that women's safety will be compromised if they are forced to share their records. Yet, if domestic violence programs do not share some information with child protection agencies or the juvenile courts, judges may make decisions regarding the placement of children in protective custody without the full benefit of knowledge about mothers' efforts to maintain their children's safety.

Clear guidelines that aim both to ensure the safety of all victims and to share necessary information are part of the solution. For example, child welfare agencies should establish guidelines for the sharing of child protection case records with law enforcement agencies, with criminal and civil courts involved in non-juvenile court matters pertaining to child maltreatment and domestic violence, and with domestic violence programs. Agencies should, however, preserve the confidentiality of information about adult domestic violence, a victim's safety plan, and her current address, unless required by law to disclose this information.

Recommendation 13

Child protection services, domestic violence agencies, and juvenile courts should develop memos delineating the mandates of each system, their confidentiality requirements, and agreements for sharing information.

Memoranda of understanding between agencies should specify what information will be entered into databases, who will have access to information, how information will be used, and how information will be shared across agencies. Protocols should specify procedures to ensure that information about domestic violence risk to the family is readily available to new child protection and court personnel when a case is transferred. In some communities, coordinating councils or task forces focused on child maltreatment or domestic violence may provide the forum in which such memos could be designed.

Recommendation 14

Child protection services and juvenile courts should support the principle and policy goal of privileged communication protections for battered women.

Domestic violence programs and other agencies requesting the release of information should establish procedures to inform battered women about privileged communication and the implications of waiving their privilege. Juvenile courts and child welfare agencies should work with domestic violence organizations to establish procedures for the issuance of subpoenas in domestic violence cases. Prior to their disclosure of information, victims should be informed of the limitations to confidentiality and how information disclosed may be used. Victims should be offered assistance and safety planning before information about domestic violence is shared with the perpetrator, his attorney, or court personnel.

Principle VII.

Local, state, and federal agencies should collaborate to develop information gathering and evaluation systems to determine the intended and unintended outcomes of collaborative efforts to serve families experiencing domestic violence and child maltreatment.

The guidelines and strategies recommended in this volume require careful evaluation of their effects. As courts and service providers modify their approaches to families in which both child maltreatment and domestic violence occur, it is extremely important for policy makers and program developers to have access to detailed descriptions and evaluations of new efforts.

Recommendation 15

Intervention with families in which both child maltreatment and domestic violence occur is at an early stage of development. Policy makers and program developers should support evaluation and research studies that directly inform policy and program decision-making.

Current understandings of the impact of new collaborations on families are only superficial. As a starting point, descriptive information including client demographics, case characteristics, and a history of the multiple forms of violence experienced by a family must be collected, summarized, and disseminated.

It is important to go beyond description, however, to mount evaluations of the outcomes achieved by particular intervention strategies. The identification and measurement of intended outcomes should be undertaken as an initial step in program evaluation. Because of the danger of negative consequences for families, programs should develop mechanisms to monitor unintended outcomes. The ability to understand in depth the many consequences of programs will require a variety of research methodologies, including qualitative ones. Eventually there will be a need for more formal experimental and large survey research.

Courts and service providers are encouraged to develop collaborative research and evaluation relationships to support such efforts. Collaborative research models have been proposed which consider the dynamic nature of the agencies, systems, and communities involved⁴⁰. It is particularly important to include the participation of and information from clients to give voice to their experiences and the impact that changes have had on their lives. Research areas needing investigation include the study of

- the overlap between domestic violence and child maltreatment, particularly studies that examine the dynamics of this relationship, including such variables as the severity and chronicity of the violence, and the individual, interpersonal, and social system dynamics associated with the co-occurrence of child maltreatment and domestic violence;
- the effects of witnessing domestic violence on a child's development, particularly the long-term effects and potential protective factors;
- the effectiveness of specific programs for battered women with maltreated children and for child witnesses of domestic violence;
- the effectiveness of system responses, in particular coordinated responses to families with both forms of violence;
- the consequences for children and women of reporting domestic violence in child protection and court settings;
- the process and factors by which women evaluate their safety as well as the safety of their children, particularly in cases involving both domestic violence and child maltreatment;
- the dynamics involved in cases where adult victims of domestic violence are, in turn, abusive to children in the home.

Chapter 3. – Child Protection Services:

A. Introduction:

Protection of children against maltreatment has a long history in the United States with state and voluntary agency efforts dating back to the late 1800s and federal recognition highlighted at the 1909 White House Conference on Children. Today, child protection and child welfare systems remain largely the responsibility of state and local government, administered within a framework of federal law, policy, and funding.

At the state level, both courts and child welfare agencies share responsibility for protection and decision making about vulnerable children. Public child protection agencies receive reports of actual or suspected child maltreatment from mandated reporters (e.g., educators and other school personnel, medical and health professionals, social workers and therapists, and others who have regular responsibility for the care of children), as well as from private citizens and children's relatives. It is these state and local agencies that carry out investigation, risk, and safety assessment, service planning, and recommendations to the court about keeping a child safely at home, removing a child from her family into foster care, family reunification, termination of parental rights, and possible adoptive placements. Public agencies also provide direct services or oversee intervention plans and their implementation. Private and voluntary child and family services agencies continuing their longstanding work with vulnerable families, are in many states partners with public agencies in providing case management, counseling and other services, and placement. Once largely the province of social workers and law enforcement child protection now is the responsibility of a broader array of professionals.

The Child Abuse Prevention and Treatment Act (CAPTA) of 1974, and subsequent amendments, created incentives for states to develop a capacity to accept and respond to reports of maltreatment.

Child Abuse & Neglect Definition:

The amendments of 1996 defined child abuse and neglect as: at a minimum, any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm⁴¹.

Within this framework, state definitions vary, as do policies and practices with regard to reporting, assessment, and intervention. Among the issues that most affect families in which both child maltreatment and domestic violence occur are allegations of "failure to protect" a child from harmful circumstances and the consideration of "witnessing abuse by children" to be itself maltreatment. These circumstances need careful decision-making and intervention to assess protection of children and victimized adults and avoid inappropriate disruptions of family ties.

The National Child Abuse and Neglect Data Systems (NCANDS), administered federally, contains data on child maltreatment that is reported to state child protection agencies. Although the incidence of publicly reported child maltreatment has leveled off in the last few years, the reports of abuse and neglect to child protection services have escalated steeply over the past two decades. In 1996, states substantiated that 970,000 children had been maltreated. Approximately 60 percent of the children reported to state child protection agencies had investigations that resulted in unsubstantiated dispositions. More than half of the children with substantiated cases were victims of neglect. About 24 percent were victims of physical abuse, 12 percent were victims of sexual abuse, and another 6 percent were subject to substantiated emotional abuse. Even when cases are substantiated, only about 16 percent of these children are removed from their homes.

A separate study, the National Incidence Study of Child Abuse and Neglect (NIS), which was conducted for the third time in 1994, uses a methodology that includes children reported to child protection services as well as children believed to be maltreated but not reported. NIS-3 found that 2.8 million children were maltreated under a broader standard that includes endangerment as well as harm⁴². This is a doubling of the number from the prior NIS study in 1986. The NIS-3 further found that a substantial portion of children who are maltreated were not known to or seen by child protection agencies.

The NIS-3 also indicates that there is no significant difference between the rate of maltreatment among white and non-white children. This contrasts with NCANDS data that reveal children of color, in particular African-American children, are over-represented significantly in the child protection system. At present there is little research clarifying how and why these conditions exist.

Protection of the child has been the focus of attention in the child welfare system. The Adoption Assistance and Child Welfare Act of 1980 established a comprehensive set of legal and funding requirements governing placement and support for children in foster care and adoption⁴³. This major reform was developed in response to mounting evidence that children were removed from home inappropriately, experiencing multiple foster placements, languishing in care for years at a time, and subject to inadequate efforts to reunify them with their families or find them permanent homes where necessary. Several key protections for these vulnerable children were embedded in the law: the requirement that, prior to removal of a child from home, “reasonable efforts” be made to keep the family intact; service plans be developed for children removed from home; placement of the child be made in the least restrictive environment and as close to home as possible; regular review of placement and establishment of permanency plans for children be developed within mandated time frames; “reasonable efforts” be made to reunify a child safely with the family; and permanency determinations be made within a specified time.

Significant changes in this policy were passed in the Adoption and Safe Families Act of 1997 (ASFA). While maintaining the basic legal parameters and requirements for urgent action for all children who are maltreated, the new law reinforces the primacy of the child’s health and safety in decisions about child protection and placement. For example, the law clarifies that certain children will not be subject to reasonable efforts to reunite families, criteria for termination of parental rights are expanded, and adoptions are encouraged.

Several provisions of ASFA, taken together, expedite decisions about children in foster care and the process for achieving permanency for them. The time frame for establishing a permanency option has been shortened significantly. In addition to reviews required every six months to check the continuing necessity and appropriateness of the placement, courts must hold “permanency hearings” within 12 months of a child’s entering foster care to determine the child’s permanency plan for reunification, adoption, or other permanent home. Courts must initiate or join proceedings for termination of parental rights for any child who has been in foster care for 15 of the preceding 22 months, or any child for whom reasonable efforts have been determined to be inappropriate. Exceptions to the latter requirement are permitted in cases where a child is living with a relative, terminating parental rights would not be in the best interests of the child, or the state has failed to provide the family with services that will enable the child to return home safely.

In cases involving both domestic violence and child maltreatment, it is critical to assess the needs and circumstances of all family members so that appropriate safety planning and services can be provided as early as possible. The new timelines give even greater urgency to early service planning and delivery and present greater challenges to courts and child welfare agencies, which will require adequate and effective resources and practice protocols.

As the child welfare system over the last 25 to 30 years gave increasing attention to child protection, its focus shifted heavily toward safety; operationally, reports and investigations have taken priority. The demands of investigating numerous reports of maltreatment and placing and supervising children in foster care have strained the capacity of child welfare systems to offer the kinds of services and supports vulnerable families need to repair frayed relationships and enhance their functioning. Non-coercive supports for families, once a reliable tool for child welfare workers, have shrunk or been eliminated. In response to this contraction of services, efforts were made to develop new strategies, such as intensive home-based services and community-based family resource centers, to intervene with families much earlier in order to avert crises and prevent unnecessary removal of children from their families.

At the same time, the child welfare system, like the general public, was unaware of the extent and nature of domestic violence. In the 1980s and 1990s, with the parallel emergence of grassroots domestic violence services and advocacy and the development of preventative and earlier interventions for troubled families, understanding has grown within the child welfare system of the need to pay greater attention to parents and to address violence between adult partners. In addition to counseling and parent education, many of these families need substance abuse and mental health treatment, job training and jobs, housing, health care, childcare and respite care, safe visitation, and domestic violence services. Some resources are available under the Child Welfare Services program (Title IV-B), Medicaid, and the portion of Social Services Block Grant funds that states choose to use for child protection.

In 1993, the Family Preservation and Support program provided new resources for community-based early intervention and prevention services focused on the entire family. Family preservation services, developed to intervene with the family to avert removing a child from home, were designed on the premise that intensive attention to the needs of the other family members was necessary if children were going to be able to stay safely at home or return home after time in foster care. When the program was extended and expanded in 1997 (and renamed The Promoting Safe and Stable Families Act), assistance to address domestic violence was included explicitly as a legitimate use of funds in the context of services provided to help reunify families. Michigan’s family preservation program, Families First, pioneered inclusion of a

domestic violence component that involves training for family preservation workers and provisions of family preservation services to vulnerable families in shelters for abused women⁴⁴. Using this experience, the state also developed a new set of protocols in their Child Protection Services unit.

Other states and communities also have begun to develop new tools to address domestic violence within the child welfare system. Building on its decade-long collaboration with organizations representing battered women, the Massachusetts Department of Social Services now uses a domestic violence protocol and has a full unit of specialists on violence against women who provide training and help DSS social workers on specific cases⁴⁵. Child welfare agencies in other states and communities are testing a range of innovations: separate units to deal with cases involving both child maltreatment and domestic violence (San Diego)⁴⁶, cross-training workers from both systems about both domestic violence and child maltreatment, and stationing domestic violence victim advocates in local social services offices (Oregon)⁴⁷. In addition, in the context of piloting new approaches to community responsibility for family safety, Cedar Rapids, Iowa, is integrating child protection and domestic violence workers into community-based agencies⁴⁸.

Some states have enacted legislation to address those situations in which both domestic violence and child maltreatment are present in families. For example, Alaska and California require state agencies to screen for domestic violence in child maltreatment investigations and to take measures to provide for the safety of the battered mother, including removing the offending parent from the home⁴⁹. Other states, including South Dakota and Indiana, permit orders of protection to be issued in dependency or child-in-need-of-supervision cases⁵⁰. Another legislative trend involves mandating domestic violence training for child protection workers, as in California and Kentucky⁵¹. Nevada has created a task force of child and family services in consultation with the state domestic violence prevention council, to review the role of child protection agencies and the criminal justice system in eliminating the impact of domestic violence on children⁵². In Ohio, the court is authorized to require a public children's services agency to provide supervised visitation when the respondent in a protection order is granted visitation⁵³. While there are many concerns regarding the criminalization of children's exposure to domestic violence, some states, such as Utah, have enacted such legislation; other states, including California, Oregon, Florida, and Washington, permit or require enhanced penalties for domestic violence committed in the present of a child.

While some communities are testing new strategies that recognize the shared safety needs of women and children, few evaluations have been conducted, practices are not widespread, and there is as yet no uniform policy that provides family protection and support in cases where both a child and a parent are subject to abuse. In cooperation with courts and domestic violence service providers and new community partners, child protection services and child welfare agencies must build on their responsibility, experience, and dedication to ensure safe and stable homes for children and families.

The vision of the principles and recommendations that follow is a child protection system that collaborates on the goals of safety, stability, and well-being with a variety of existing, new, or strengthened community resources and takes leadership with others to ensure such collaboration. The following section specifically focuses on the role of child protection services in taking leadership for change in the communities in which it exists and in further developing its own internal capacity to promote family safety. The section is divided into three areas: (1) providing collaborative leadership to improve a community's capacity to respond to child maltreatment and adult domestic violence; (2) improving agency capacity to ensure the safety, stability, and well-being of both child and adult victims in a home and to hold perpetrators of violence accountable; and (3) changing agency policy and worker practice in domestic violence and child maltreatment cases. The chapter concludes with a section focused on community treatment programs.

B. Child Protection Services:

Principle VIII

Child protection services and community-based child welfare agencies should collaborate with domestic violence organizations and juvenile courts to provide leadership in developing new services and publicly articulating the need for additional resources in order to promote family safety.

Child protection services alone cannot assure safety. Caseworkers do not live with families; around-the-clock services rarely are available to monitor the safety of children or adult victims; and out-of-home placement is not a reasonable, affordable, or needed alternative for most families. Because of these and other limitations in resources and in existing methods of intervention, child welfare agencies are seeking new ways to ensure safety for children through community resources. If such efforts are to be successful,

the capacity of communities to support mothers' efforts to find safety for themselves and their children and perpetrators' efforts to stop abusive conduct must be improved. Child protection and child welfare agencies should be collaborative partners in leading the development of and support for these new community efforts.

For women to gain safety for themselves and their children, there must be an accompanying infrastructure of support that broadens both the array and quantity of resources available. Many women take strong steps toward developing safe environments only to be defeated by the lack of community support structures and the inadequate response to repeatedly violent men. Success and safety require added assistance in the form of subsidized childcare, transportation, transitional housing, job training, employment and substance abuse services, health and mental health care, and access to advocacy in key systems including the police, courts, and child protection services.

Recommendation 16

Child protection services and community-based child welfare agencies should collaborate with domestic violence organizations and juvenile courts to assess the availability of resources in the community and to develop new responses.

A collaborative leadership that includes child protection agencies should conduct a community-level assessment of currently available safety resources for child and adult victims of violence and develop a response plan in four key areas: resources for immediate and long-term safety; resources to provide family stability and basic needs; resources to support accountability and behavior change for batterers; and resources to address the traumatic and long-term impacts of violence for women and children.

Improving responses should extend beyond formal services to build on the strengths and resources of communities. For example, Native American tribes may not provide accountability through traditional models of batterer intervention. Rather, they may join in work with elders, community traditions of healing, and the tribal justice system to provide accountability and counsel to men who batter.

Recommendation 17

Child protection services and community-based child welfare agencies should collaborate with domestic violence organizations and juvenile courts to monitor the effectiveness of community programs.

Leadership for establishing community-based safety resources does not end once they are established. Continuing leadership is required to establish whether programs are providing safety to child and adult victims effectively and holding perpetrators accountable. Such a system will require agencies to work with community partners to determine the standards for reviewing programs.

Such a process typically will include:

- involving community partners and citizens;
- involving women, children, and when safe, men who receive services;
- establishing benchmarks for measuring program success that incorporate culturally competent best practices;
- reviewing the use and effectiveness of services for different segments of the community;
- identifying barriers to successful program operations and offering structured and time-limited guidance for program improvement;
- assessing the changing characteristics and needs of the community and reflecting these changes in program design and resource allocation.

Child protection and community leaders should devise evaluative mechanisms that are responsive to cultural values and principles. Often this will mean looking beyond collecting aggregate data to gathering feedback from individuals and groups about what worked, how it worked, and why. This may include such methods as detailed case analysis, involving in-depth interviews with members of a family and their service providers, or seeking informal input from communities by participating in community gatherings and social events.

Principle IX

Child protection services should improve their capacity to promote safety for all family members.

Improvements in community capacity to ensure safety for child and adult victims and accountability for perpetrators should be matched by similar changes within child protection services. The recommendations provided in this section presume that agencies already are working toward the achievement of best child welfare practices, as defined by federal and state statute, accrediting bodies such as the Council on Accreditation, standard setting organizations such as the Child Welfare League of America, and national leadership organizations such as the National Association of Public Child Welfare Administrators.

Recommendation 18

Child protection services should develop screening and assessment procedures, information systems, case monitoring protocols, and staff training to identify and respond to domestic violence and to promote family safety.

Steps toward achieving this goal include the following procedures

- initiating and supporting mandatory domestic violence training for all child protection workers and supervisors and supporting cross-training of domestic violence service providers on child protection issues (see Chapter 4);
- developing a domestic violence screening and assessment tool and requiring its use as standard practice in child protection intake, investigation, and assessment;
- implementing policies and practices to ensure that caseworkers routinely and safely inquire about adult domestic violence (i.e., in safe environments where victims are interviewed separately from perpetrators);
- reviewing all agency forms – screening, intake, assessment, case service planning, and monitoring – to ensure workers can record and account for domestic violence adequately;
- recording domestic violence information, including any specific harm to the child, on agency forms (e.g., case findings and affidavits) in a way that clearly holds the perpetrator of domestic violence responsible for harm and identifies the resulting safety concerns and continued risk that the perpetrator creates for family members;
- monitoring case records to ensure that all child maltreatment cases are screened routinely and assessed for domestic violence, particularly at such key points in child protection as screening, investigation, assessment, case opening, placement, service plan review, and case closure;
- recording specific steps in service plans to be taken by the perpetrator and monitored by the agency, community partners, and the courts in order to reduce the risk he creates;
- requesting the court to make a specific finding about domestic violence, when it is safe to do so, and whenever possible, relying on collateral evidence so as to avoid retribution by the perpetrator against the adult or child victims who disclosed information;
- taking advantage of developing information systems to conduct routine criminal records checks for domestic violence and active protection orders in all cases during investigations and reviews of non-custodial caregivers, substitute care providers, and potential adoptive families.

Principle X

Child protection workers should develop service plans and referrals that focus on the safety, stability, and well-being of all victims of family violence and that hold domestic violence perpetrators accountable.

Service planning in child welfare typically focuses on providing services to reduce the risk of child maltreatment and to strengthen parenting ability. Service planning in domestic violence – child maltreatment cases also will require focusing actively on the safety of the adult victim and the responsibility of the perpetrator to stop abusive behavior in order to keep children safe. All battered mothers and their at-risk or abused children in child protection caseloads should have safety plans that are part of larger service plans. These plans should be prepared as separate documents so their integrity is not compromised if perpetrators have access to them. All perpetrators of domestic violence should have service plans requiring the cessation of abusive behavior and compliance with the orders of the court and the recommendations of batterer

intervention programs. These plans should be in place regardless of whether the adults in the family intend to stay together or separate.

Service planning with safety of child and adult victims in mind will focus on

- securing safe housing in the adult and child victims' own residence whenever possible or with her family or friends, in subsidized housing, in shelter, or in transitional or permanent housing;
- providing voluntary advocacy services for battered women within the child protection system;
- offering support to battered women in a respectful way that does not label them unnecessarily as neglectful and produce unintended, long-term, harmful consequences for them and their children;
- referring perpetrators of domestic violence to batterer intervention and education programs and monitoring attendance and compliance with court and program requirements;
- referring adult victims to services that will aid in securing cash assistance, child and employment support, and welfare;
- referring adult victims to voluntary supportive counseling groups or community-based advocacy services, and to job training, parenting, substance abuse treatment, and immigration specialists in programs trained to respond to domestic violence victims and their children;
- referring child victims to skilled resources for counseling and treatment services in order to assess and address the consequences of the violence;
- referring battered mothers to legal advocacy, family law, or immigration law programs for assistance in obtaining protection orders, custody and safe visitation arrangements, child support, and/or divorce;
- providing transportation to safety resources, including shelters, domestic violence programs, childcare, court, educational institutions, counseling, and health care services;
- asking for dependency court protection orders, when the battered woman agrees.

Agencies must allow workers adequate time to provide assistance to domestic violence victims as these tasks can create additional responsibilities for staff. Battered women's advocates should be included in developing and implementing the service plans, when possible, to ensure the safety of adult victims. When child protection workers investigate reports of child maltreatment, they routinely should leave written domestic violence referrals and legal rights information for family members when it is safe to do so.

Recommendation 19

Agency policy must state clearly the criteria under which children can remain safely with non-abusing parents experiencing domestic violence; the assessment required to determine safety and the safety planning, services, support, and monitoring that will be required in these cases.

Adult domestic violence may take many different forms, as does children's exposure to it. Many children may live safely with non-abusing parents in homes where domestic violence has occurred. Differential assessment of the specific circumstances in the family along with differential responses, will allow child protection agencies to address the need for safety while balancing concerns about maintaining the family. Child protection assessment, service planning, and referrals for child witnesses of domestic violence should include:

- an assessment of the nature and severity of past violence, the risk of violence in the future, the child's degree of exposure and resilience, the presence of protective factors in the immediate and extended family, and available support from the community;
- a determination of whether a child can remain safely in his home with a parent; (This may require removing the domestic violence perpetrator. If the perpetrator can be removed, the child protection agency should petition the court for removal of the perpetrator after the non-abusive parent has been given a fair opportunity to understand her options, including all of the services available to her. As a last resort, if the mother states she does not want removal of the perpetrator from the home, it may be necessary to remove the child from parental care.)
- a determination of whether in-home services, such as intensive family-based or family preservation intervention, can provide meaningful support to adult and child victims, including help for the adult victim in assessing safety needs, making viable safety plans, and determining whether the safety strategies are working or need adjustment;
- use of visitation centers, when needed, for court-ordered visitation between a child and violence parent to protect the child from abuse and/or witnessing further assaults and threats against his mother.

Recommendation 20

Child protection services should make every effort to develop separate service plans for adult victims and perpetrators – regardless of their legal status vis-à-vis the child.

Service plans are developed most commonly for mothers of children in the child protection system. Perpetrators of violence against women and children often are missing from the child protection response for several reasons: fathers are not always living in the home at the time of child protection intervention; if they are in the home, they may not be related legally or biologically to the children; they may be an inconsistent presence in the family; and they also may make workers feel unsafe. Despite these barriers, child protection services must initiate efforts to reach violent perpetrators and hold them accountable.

Concurrent permanency planning practices, which include the use of parent locator services, allow agencies to begin concerted efforts to find and provide services to fathers. In cases of domestic violence, as in child sexual abuse and serious physical abuse, accountability is essential. These efforts may require additional work on the part of some child protection systems but also may address safety in families more adequately, save time related to future involvement with the same family, and help ensure that "reasonable efforts" requirements have been met.

One part of holding perpetrators accountable is to develop separate service plans for them that require

- cessation of verbal, emotional, physical, and sexual abuse of all family members;
- cessation of interference with their partners' efforts to parent children safely;
- compliance with protection orders and other court-ordered mandates, including those imposed by probation, parole, and perpetrator intervention programs;
- attendance at culturally responsive, state licensed or approved education and counseling programs for batterers, as part of their service plans, when such programs exist.

Child protection workers should monitor the implementation of these plans. This can be achieved better in collaboration with other agencies. For example, in some locations, such as San Diego, child protection workers and probation officers work in close collaboration on cases that involve child maltreatment and domestic violence⁵⁴. Child protection workers should monitor perpetrator compliance with protection orders and testify in court about protection order violations by perpetrators.

Recommendation 21

Child protection services workers should assess thoroughly the possible harm to a child resulting from being maltreated or from witnessing adult domestic violence and should develop service plans to address this harm.

Children who are maltreated or exposed to domestic violence may require services but may not require removal from the non-abusing parent. Some of these families may not qualify for a finding or substantiation of abuse, but nonetheless require services. Living in a violent household should be sufficient to qualify for voluntary services. Given the varying levels of violence and its impacts, individual assessments should determine the appropriate venue of the services. Some services may be outside the child protection system, such as battered women's shelters, community agencies, or mental health services.

Child protection services should refer children exposed to domestic violence for evaluation and, when needed, for specialized services designed for them. Where such services are lacking, child protection services should facilitate collaborative efforts between local social services and battered women's programs to develop adequate intervention plans for children (see Chapter 2). Visitation arrangements should be consistent with children's treatment needs as well as their safety needs (see Chapter 5).

Recommendation 22

Child protection services should avoid strategies that blame a non-abusive parent for the violence committed by others.

A major issue of contention between child protection workers and domestic violence victim advocates is the perceived blaming of mothers for "failing to protect" their children from the violence a male perpetrator commits against the adults and children in the family. Finding non-abusive mothers responsible for failure to

protect in cases of domestic violence may result from the system's inability to hold the actual perpetrator of violence accountable.

One avenue for promoting the safety and well-being of children is strengthening the safety of non-abusive adult victims in the household. When mothers are non-abusing caregivers, child protection agencies should make reasonable efforts to provide support to them for their own safety and that of their children. Some states, such as Michigan, have revised policies so that non-abusing mothers cannot be substantiated for failure to protect unless the perpetrating male is substantiated either for abuse or for neglect.

Both men and women can, of course, physically abuse or neglect their children. While care must be taken not to blame battered mothers for others' violent behavior, agencies also must not minimize a woman's violence or neglectful behavior. Careful assessment and intervention are called for in these circumstances.

Recommendation 23

Child protection services should avoid using, or use with great care, potentially dangerous or inappropriate interventions such as couple counseling, mediation, or family group conferencing in cases of domestic violence.

Some interventions may be inappropriate or may create added danger for family members, such as:

- It may be dangerous to require an adult victim to carry out such tasks as obtaining an order for protection that, in her estimation, may increase the level of danger to her and her children. Because some perpetrators actually have been found to increase their use of violence when formal legal intervention occurs, an adult victim's estimation of danger should be given careful consideration by the child protection system.
- Safety concerns also may arise in the context of couple, conjoint, or family therapy. To include couple, conjoint, or family therapy in a service plan against the wishes of the adult victim, and before physical and sexual abuse has ceased for a significant period of time, should be avoided. Many victims describe fear and safety concerns surrounding the disclosure of information about domestic violence and/or child maltreatment in couple counseling sessions where their abusers are present. Since current outcome data on couples counseling in cases of domestic violence shows it to be no more effective than gender-specific groups, concerns for safety contraindicate couple or conjoint counseling sessions as a primary or first intervention with a family.⁵⁵
- Similarly, many safety and fairness concerns have been raised regarding the use of mediation and, by extension, family group conferencing.⁵⁶ These include a focus on mutual responsibility and reconciliation that may place adult victims in a position of being held responsible for their partners' criminal behavior. Where mandated or permitted, mediation and similar approaches, such as family group conferencing, should be used only in settings that develop protocols on its appropriate and safe use, conduct appropriate agency training, and regularly supervise staff about victim safety needs. (See a more extensive discussion in Chapter 5, Recommendation 48.)
- Agencies and courts should avoid referring perpetrators to anger management programs that do not address underlying belief systems and attitudes that contribute to domestic violence.
- Finally, visitation arrangements that endanger adult and/or child victims should be avoided. Because adult domestic violence may continue after separation, careful attention must be paid to developing safe visitation arrangements for both the adult and child victims in a family.

Recommendation 24

Child protection services should avoid placing a child in foster care with persons who have a documented history of perpetrating child maltreatment or domestic violence.

Before a child of a domestic violence victim is placed in foster care, the home of a relative, or in an adoptive family, the worker should assess the potential caregivers carefully to ensure that a documented history of perpetrating either child maltreatment or domestic violence does not exist. On rare occasions, exceptions may be granted when placement with a relative is considered to be in the child's best interests. In these circumstances, the workers should determine that the history does not involve serious violence and is not recent, that the perpetrator no longer presents a risk to the family or has adequately addressed violent behavior, and that the violence is highly unlikely to occur in the future. In all cases, assessments should determine whether a potential caregiver will keep the child safe and ensure safety during visitation. If the

relatives or other caregivers are not supportive of the adult victim or have a history of child maltreatment or domestic violence, the placement of a child in that home is contraindicated.

C. Community Treatment Programs

Recommendation 25

Community agencies providing services to families in the child protection services caseload should have procedures in place to screen every family member privately and confidentially for domestic violence and to provide help to them, including safety planning and meeting basic human needs.

Every community-based provider of services to families in the child protection services caseload should have the ability to screen family members safely for the existence of adult domestic violence, assess danger, and provide for safety. Adequate training of staff is required. Safe screening and assessment must be conducted in a private and confidential setting where the potentially dangerous consequences of disclosure may be minimized.

Recommendation 26

Every agency providing family support, preservation, or treatment services should, by policy, allow workers adequate time to assist domestic violence victims.

For service plans that include safety for adult victims to be successful, adequate staff resources are required to assist adult victims and their children. Staff time should be available to accompany adult victims and their children to court, to find them safe shelter or housing, to help them in locating other forms of legal and economic assistance, and to offer emotional support and information. Culturally responsive practice also may demand more staff time, as workers become familiar with community resources and supports, and as they try to integrate informal helpers into the family's plan for safety and services.

Recommendation 27

Parenting programs should reexamine their procedures, policies, and curricula to ensure that safety for adult victims and information about domestic violence are integrated into programmatic activities.

A common element in many service plans for parents involved with child protection services is their required participation in parenting education programs. These programs commonly do not include information about adult domestic violence and its impact on children and family relationships. These programs should reexamine their intake and assessment protocols to include questions about adult domestic violence. Parenting curricula should be designed to integrate questions about adult domestic violence. Parenting curricula should be designed to integrate information about the effects of domestic violence on adult and child victims, non-violent co-parenting strategies, and services available to victims and perpetrators of domestic violence.

Chapter 4. – Domestic Violence Services for Families:

A. Introduction

In the mid-1970s, battered women came forward and, with the help of grassroots women's groups, asked the community for safety and sanctuary from the men who were assaulting them. As a result, throughout the 1970s and 1980s, hundreds of small, community-based shelters and support groups for abused women emerged. Many of these groups began with little or no funding. Their primary goals were to create safety and autonomy for battered women and to improve the responses of those systems to which women turned for help, especially law enforcement and the criminal and civil courts.

Today there is a network of almost 1,800 domestic violence programs in the United States; approximately 1,200 of these include shelter.⁵⁷ Most community-based domestic violence programs provide an array of services including advocacy with police, courts, and other agencies; support groups for women and for child witnesses to violence; 24-hour crisis hotlines; referrals to attorneys and drug and alcohol programs; housing assistance; and food and clothing. Domestic violence agencies often provide support and advocacy services in addition to emergency shelter to women and children. However, in some communities, families still have no access to specialized domestic violence services; in many rural counties there simply is no help available; and in large urban areas, there are not enough services for the thousands of women seeking them. In spite of enormous progress, small grassroots domestic violence organizations still are swamped by the demand.

Community-based domestic violence programs often cobble together an array of resources to survive. As non-profit organizations, many engage in constant community fund-raising efforts. In most states, legislatures have made annual appropriations for domestic violence victim services; in others, marriage license and divorce fees or crime victim funds support these services. Most state funding stipulates – as does the federal Victims of Crime Act – that domestic violence organizations use grant monies for shelter, crisis, advocacy, and support services for victims and their children.

Important federal funding first came in the 1980s and again in 1994 with the passage of the federal Violence Against Women Act (VAWA). This act tripled funding to battered women's service programs. In 1994 shelters throughout the country received a total of \$20 million in federal support; by 1998 this figure rose to \$87 million.⁵⁸ The Violence Against Women Act specifically makes grant awards to states, tribes, and territories to expand shelter and support services to victims and their children. In spite of these increases, domestic violence service organizations remain grossly under-funded as they try to respond to hundreds of thousands of families.

Legal remedies for domestic violence also have evolved over time. By the 1980s, state legislatures had created laws to try to make battered women safer.⁵⁹ These include statutes enabling warrantless arrest for misdemeanor assault and statutes creating civil and criminal protection orders to provide a range of safety options to victims. In many states, protection order provisions now include the option of asking the court for "no contact" and eviction orders for the batterer and for child support and safe visitation exchange.

These new civil and criminal remedies have been designed with three overlapping policy goals: protection for victims, criminal punishment and deterrence of batterers, and rehabilitation of batterers.⁶⁰ States now have many new resources available to improve criminal justice response to domestic violence. States can apply for federal funds to train law enforcement officers, judges and prosecutors and to enhance victim services. In fact, the increase in support created by VAWA has gone largely to these criminal justice initiatives.

In many states, courts now mandate those convicted of assaults against their partners to attend batterer intervention programs. Some of these programs are managed through the courts or corrections departments; others are run by community men's groups or domestic violence organizations, which often report back to the court about their clients' progress. Still others are among the small group of emerging programs servicing tribal and diverse ethnic communities. Most batterer intervention programs provide services both to voluntary and court-mandated clients, although the vast majority of participants are now court-referred. A number of states have created program standards and certification guidelines for these programs that require that they focus on the dual goals of victim safety and the cessation of violence.⁶¹ Like shelters, batterer intervention programs frequently are unavailable in rural areas, in immigrant communities, on reservations, and in communities of color.

Many communities are trying to adopt the model of intervention programs – a coordinated criminal justice response – first designed by the Duluth Domestic Abuse Intervention Project.⁶² In this model, every part of the system works together to create victim safety and offender accountability for violence. The courts, police, probation, and parole and the local domestic violence shelter collaborate very closely to design policies and procedures to ensure that victims are safe and that offenders do not fall through cracks in the systems that monitor and serve them.

As services and legal reform efforts evolved, so did new responses to domestic violence. By the mid-1980s, every state had a domestic violence coalition responsible for statewide training, technical assistance, and institutional reform. Professional associations also began to respond. As the devastating health and mental health consequences of violence against women were identified, for example, major organizations such as the American Medical Association mobilized public awareness campaigns and developed response protocols for their members. Now domestic violence is defined not only as a criminal justice issue, but also as a public health crisis.

Today, specialized domestic violence response programs and advocates are operating in a wide array of agencies: police departments, prosecutors' offices, hospitals, and health clinics. A handful of programs for children who witness domestic violence have been established by independent non-profit agencies, such as the Domestic Abuse Project in Minneapolis, and in health care settings, such as Boston Medical Center's Child Witness to Violence Project.⁶³ More and more communities are establishing domestic violence coordinating councils and task forces where interagency work is coordinated and new community-wide responses are designed to fill the gaping holes in services.⁶⁴ Increasingly, professionals realize that domestic violence is everybody's business.

As independent, grassroots domestic violence organizations work with these new responders, they confront many new and difficult dilemmas. One of the most pressing is the fact that women and children are abused by the same perpetrator in a family. Repeatedly, communities are asking domestic violence organizations about the best ways to respond to children who witness violence at home. And child protection services administrators want answers to questions like "Which cases of domestic violence pose serious risks to children?"

These new questions present serious challenges to grassroots domestic violence service organizations. Historically, child protection service agencies, the juvenile court, and domestic violence programs have shied away from working with each other. Each system operates with different mandates and often is overwhelmed. In fact, these agencies frequently have been at odds; domestic violence victim advocates have accused child protection agencies of blaming mothers for child abuse, while child protection workers have accused domestic violence service providers of ignoring the safety needs of children.⁶⁵

The reality is that each system has different mandates and unique responsibilities, yet workers in each are concerned about the safety of their clients. Contrary to myth, most battered women's programs have always defined themselves as sites for child advocacy and safety. Many child protection workers also regularly intervene to protect abused women. It is clearly in the best interest of battered women and their children that these agencies collaborate in more effective ways.⁶⁶

Thousands of battered women have open cases in the child protection system and the juvenile court. Most of these women care deeply about their children. Unfortunately, many of them are not reached by grassroots domestic violence service organizations, which wait for clients to refer themselves voluntarily. Battered women need more accessible domestic violence services, and child protection workers want this help for their clients. In the few places where domestic violence services have been integrated into a child protection system, such as the Domestic Violence Unit of the Massachusetts Department of Social Services, many workers in both systems have responded to the initiative, and to their clients, in very positive ways.⁶⁷

The principles and recommendations in the following sections focus on the need for an improved response to women and children who experience domestic violence and child maltreatment. The recommendations below are designed primarily for non-profit, independent domestic violence shelter and service providers, statewide domestic violence coalitions, and batterer intervention programs. The following section on domestic violence service organizations is divided into two subsections: (1) taking leadership and (2) building program capacity. Many of the recommendations may be useful to other domestic violence service providers in the community. Written to enhance protections for women and children at risk and to help agencies avoid forcing their clients to act at cross-purposes, these recommendations are a starting place for deliberation in the domestic violence service provider community. Actions in that community must be combined with the commitments of the other collaborative partners in this book and with those of governmental agencies to make desperately needed resources available to protect battered women and their maltreated children. The chapter concludes with a section focused on programs for perpetrators of domestic violence.

B. Domestic Violence Service Organizations

Principle XI.

Domestic violence organizations, in collaboration with child protection services, child welfare agencies, juvenile courts and other community partners, should provide leadership to promote collaborations and develop new resources for adult and child safety and well-being.

Recommendation 28.

Domestic violence programs, child protection services, child welfare agencies, and juvenile courts should collaborate to develop new joint service models for families experiencing domestic violence and child maltreatment.

Some state child protection agencies, such as those in Massachusetts, have added domestic violence specialists to their staff and created domestic violence units to assist child protection workers and families in their caseload.⁶⁸

In Cedar Rapids, Iowa, a battered women's advocate from a local domestic violence program has been housed in a Family Resource Center and works alongside the child protection staff and the income maintenance staff to help battered women who have abused children. In Dade County, Florida, battered women's advocates, working as part of the Dependency Court Intervention Project, now help adult victims in the child protection caseload and in juvenile court.⁶⁹

In some of these collaborations, domestic violence organizations have had to reexamine agency policies in order to improve service responses to families. In Cedar Rapids, Iowa, for example, the domestic violence organization had a policy of prohibiting its staff from making home visits to clients. Although this policy protected staff from physical danger and abused women from intrusive interventions, it also cut off access to help for many battered women in the child protection and juvenile court caseload. After thorough planning about worker safety and client privacy protections, the domestic violence victim advocate located in the Family Resource Center now makes home visits to many women who request them.

This location of domestic violence advocacy services within child protection and juvenile court opens up the possibility of serving thousands of families who have not been reached by existing services. It also creates far more possibilities for protecting children by offering services and supports to their battered mothers.

Recommendation 29.

Domestic violence programs, child protection services, child welfare agencies, and juvenile courts should collaborate to develop joint protocols to remove interagency policy and practice barriers for battered women and their families and to enhance family safety and well-being.

This work can proceed in a number of ways. Interagency working groups or coordinating councils might be created to improve policy and practice in overlapping domestic violence and child maltreatment cases. These working groups can offer training guidance for agencies, suggest interagency practice to help families at high risk of harm, and help to establish agency protocols for responding to child maltreatment and domestic violence. For example, the Artemis Center, a domestic violence program in Montgomery County, Ohio, has worked closely with its child protection services agency to develop a detailed protocol about how the two systems should work together.⁷⁰ The protocol contains information about how and when to make child abuse reports, how to screen for domestic violence, and how to make safety plans and write service plans. In still other locations, domestic violence coordinating councils have served as the catalyst for this work.

Recommendation 30.

Domestic violence programs should collaborate with other community groups and service providers, child protection services, and juvenile courts to improve access to services.

In some communities, domestic violence programs are examining why certain groups of victimized women - sometimes those from communities of color and immigrant populations or those from underserved groups such as lesbians - have not used domestic violence services as much as other women. Without access to services, these women and their children remain particularly vulnerable to serious assault and injury. In some localities domestic violence agencies have planned new outreach activities with the help of community groups and service providers. As a result, shelter services have been redesigned and new staff has been hired to reflect more fully the diversity of the community. In other places, funds have been given to community groups to provide more accessible domestic violence services in local neighborhoods, tribal communities, and isolated rural counties. In this way, collaborations among agencies have ensured greater access to safety resources for families.

In communities where there are large groups of immigrants, domestic violence service providers should join with community-based groups to form interdisciplinary teams designed to respond to the complex legal issues, as well as language, economic, and cultural needs of battered immigrant women and their families.⁷¹ In San Francisco, such a network was formed among the Asian Women's shelter, Nihomachi Legal Services, Asian Law Caucus, and Cameron House to improve responses for immigrant battered women and their children.

Recommendation 31.

Domestic violence organizations should support and organize regular cross-training activities with the agencies and groups that deal with child welfare.

All of the agencies that work with abused children and their families need regular cross-training about the dynamics and impact of domestic violence and child maltreatment, the risks to adult and child victims, the resources available to help families, the laws that provide protection, and safety planning skills. Chapter 2, Recommendation 11, more fully details these cross-training needs. All training seminars should review response protocols to try to ensure consistent treatment of families as they move from one agency to another in the community.

Recommendation 32.

Domestic violence programs, in collaboration with other community agencies and leaders, should take responsibility for developing a community dialogue about the prevention of family violence.

Over the last 20 years, new norms have been developing about family violence. A once ignored behavior is now unacceptable to increasing numbers of community residents. Now is the time to mobilize many people in a dialogue about ways in which the community can intervene to protect people and to prevent harm. This dialogue needs to occur in many places - schools, workplaces, recreational facilities, churches, mosques, and synagogues. The questions to pose to the community include: How can programs work together to develop and deliver prevention education? What can community residents do to prevent family violence or to help neighbors? What should healthy relationships between parents and children and between adult partners look like? How can community residents discuss these issues with each other?

Recommendation 33.

Domestic violence service organizations, in collaboration with child protection services, juvenile courts, and other community partners, should provide leadership to inform governmental bodies, legislatures, and foundations about the economic, legal, emotional, and social supports that battered women and their children need to be safe and secure.

As battered women try to make themselves and their children safe, they require various economic and social supports. These may include housing, income, jobs, substance abuse treatment, advocacy with the police

and courts, support groups, and trauma treatment. Recognizing that battered women and their children are present in multiple systems, domestic violence organizations, along with other agencies, are in a unique position to inform the community about the unmet needs of families and their barriers to safety and to request the resources to respond.

Domestic violence organizations can inform key legislative and community bodies about the needs of children who experience and witness violence. Few communities currently have a spectrum of supports and services in place for these children and their families. In general, children have access to support groups only if they reside in a battered women's shelter. Children and adolescents should be able to gain access to support services in a variety of community settings. For those with more serious trauma symptoms, mental health services also should be available. Domestic violence service providers should advocate to ensure that services for children are offered in supportive, non-blaming ways and that they always include help for parents. Specialized services for young women who have been victims of dating violence and for adolescents who have committed assaults against dating partners need to be created in most communities.

Principle XII.

Domestic violence organizations should develop further their internal capacity to respond to the safety and support needs of families experiencing domestic violence and child maltreatment.

Domestic violence organizations historically have been underfunded and focused largely on expanding services to women and on improving the criminal justice system response to adult victims. Only recently have resources become available to develop children's programs in some shelters. Shelters have yet to respond to the multiple and complicated needs of families in residence who are also in the caseloads of child protection services and juvenile courts. This work will require developing additional training for staff, response protocols, and new advocacy methods.

Recommendation 34.

Domestic violence organizations should train staff regularly to understand, recognize, and respond to child maltreatment.

Domestic violence agency staff requires regular training about the dynamics and impact of child maltreatment, screening for maltreatment, state statutes and report requirements, community resources, and referrals for parents and children.

All shelters should have written policies for their staff about screening for child maltreatment, protecting children and monitoring their safety, reporting child maltreatment, helping mothers who maltreat their children, and respecting women's self-determination. These policies should include suggestions to assist battered women in voluntarily reporting maltreatment to child protection agencies. Policies also should include directions for staff about making mandatory reports to protection services. Battered women involved in these procedures, voluntarily or involuntarily should be informed full about them.

Battered women also disclose many stories about the maltreatment that their partners commit against children. Domestic violence organizations need to develop clear directions for their staff about how these cases should be reported to child protection services. All battered women should be offered advocacy services to assist them in working with child protection agencies and the court when these reports are made.

Domestic violence organizations also should consider developing a designated child abuse reporter or review team. Because shelters have so many volunteers, and constantly rotating 24-hour staff, they expose clients to scrutiny by many people, some of whom have little training. By designating a child abuse expert or review team, shelters develop the competency of their staff to respond to child maltreatment. The designated reporter or review team should be well trained in at least two areas. First, they should be knowledgeable about the child abuse reporting statutes and procedures of child protection services. The designated reporter or review team also may serve as a liaison to the child protection agency in order to gather and receive information about changes in procedures, to coordinate the provision of domestic violence services to women already involved in the child protection service system, and to advocate on behalf of women. Second, these staff must receive careful training in cultural competence to ensure that families are not referred inappropriately and harmed inadvertently. If domestic violence organizations develop a child abuse responder or team approach, however, their written policies must clarify that this strategy does not relieve individual mandated reporters from carrying out their legal responsibilities.

Recommendation 35.

Domestic violence organizations should create supportive interventions for battered women who maltreat their children at the same time that they ensure safety and protection for abused or neglected children.

Every battered women's shelter serves some women who maltreat their children. Shelters need to develop the capacity to work collaboratively with child protection services and simultaneously create responses and use referrals to help abusive and neglectful mothers change their behaviors.

Domestic violence organizations should view battered women who maltreat their children as deserving of a wide range of services, including advocacy with child protection services. These women sometimes are stigmatized by domestic violence organizations, for example, they are asked to leave shelters because they have broken rules about using physical discipline or force against a child. Domestic violence organizations need to review their practices to determine whether more supportive interventions could be offered first. These might include providing intensive family support and parenting interventions to the clients who need them. Services could be provided by domestic violence organizations or by agencies in the community. For example, in Michigan, the state family preservation program, "Families First," provides support services to battered women and their children through direct referrals from shelters.⁷² Domestic violence organizations always should inform battered women about the availability and nature of family support and child welfare services in the community.

Recommendation 36.

Domestic violence organizations should provide child-friendly environments for the families they serve.

Many domestic violence organizations have invested considerable amounts of money to build daycare centers, after-school space, or child-friendly play space in shelters and counseling centers. Domestic violence organizations should continue to advocate with legislators and other funders for children using their services. All domestic violence organizations regularly should conduct a self-inventory about their space and its appropriateness for children. This review should include consideration of how well the space, its contents, and the programs conducted on behalf of children reflect the characteristics and preferences of the cultural groups served in the community. Additionally, domestic violence organizations should conduct annual audits of staff training and agency services to ensure that children's needs are addressed properly.

Recommendation 37.

All domestic violence organizations, especially shelters and safe homes, should have well-trained, full-time advocates on staff to provide services or develop referral linkages for children and their mothers.

More than 50 percent of the residents in battered women's shelters in most states are children.⁷³ Although the number of children's programs and staff in shelters has risen dramatically, resources still are limited seriously. Shelters and domestic violence coalitions should make it a priority to solicit additional funding to develop their programs' capacity to respond to family needs. Staff must know how to address mothers' and children's concerns about witnessing violence, child maltreatment, and grieving and loss. Additionally, staff must link families to the community resources that children and parents desperately need: substance abuse and health and mental health services, for example. Additionally, many children who reside in shelters face major disruptions in school and recreational activities; shelter staff must be able to build bridges for parents to the school system and individual teachers to help children avoid further setbacks.

Recommendation 38.

Domestic violence shelters should consider the needs of battered women with boys over the age of 12 and families with substance abuse and other mental health problems.

Historically, some shelters adopted rules that have prohibited older boys from residing in the communal settings of the shelter, separating mothers from some of their children. This rule often has been created to protect the confidentiality of the shelter site and the privacy of the female residents. However, the sweeping prohibition deprives many battered women with older sons access to safety, and the policy needs to be

reexamined.⁷⁴ In larger communities, with an array of resources, organizations may wish to develop specialized resources that are able to address the space needs of families with older children as well as their special service needs.

Although some substance abusing and mentally ill women may be a danger to other families residing in a domestic violence shelter and should be referred to other facilities, some of these women desperately need and successfully can use domestic violence residential services. Many of these women have children at high risk of harm; some of the children are already in the caseload of child protection services and the juvenile court. Domestic violence organizations need to reconsider rules that automatically bar all of these women from care. Domestic violence organizations also should reexamine the design of services and staff training in order to respond more adequately to the needs of this group of women.

Recommendation 39.

Domestic violence organizations should consider ways to provide community-based services to women who are referred to them voluntarily and involuntarily by child protection services and juvenile courts.

As child protection services and juvenile courts discover thousands of children at risk whose mothers also are battered, these agencies have mandated that abused women go to a shelter or attend a domestic violence support group.

Domestic violence organizations should clarify for child protection agency staff and the juvenile court whether, and under what conditions, they will provide services to adult victims who have been mandated for treatment. Historically, in many communities, domestic violence organizations have offered services only to adult victims who voluntarily request them. The voluntary nature of the help has been central to the identity and goals of domestic violence programs: empowering battered women and allowing them to keep or regain control over the decisions affecting their lives. Mandatory referrals challenge this philosophy and change the nature of the relationship between domestic violence organizations and women in the community. For example, domestic violence organizations have complained that mandated clients sometimes angrily resist participation in support groups and ruin them for voluntary clients. Mandating shelter stays has been even more problematic.

On the other hand, some battered women with maltreated children report that a mandatory referral from a child protection worker to attend a domestic violence support group at a counseling appointment has helped them change their lives. To avoid interagency conflicts, in some communities the child protection agency is purchasing counseling services from domestic violence specialists and offering them to their own clients in community-based locations.

The domestic violence service community needs to begin an internal dialogue and then extend this dialogue to child protection services and the courts about the various methods that might provide help to women mandated to receive services.

C. Programs for Perpetrators of Domestic Violence

Principle XIII.

Interventions with perpetrators of domestic violence should be part of larger, coordinated networks of criminal justice responses and community services, should address the safety and well-being of both child and adult victims, and should hold perpetrators accountable for stopping violent and threatening behavior.

The most common interventions for perpetrators of adult domestic violence are state or county certified batterer group intervention programs, a major focus of this section. These small group interventions, often lasting from 12 to 52 sessions, aim to change attitudes about the use of power and control in relationships and to end or reduce violence and threatening behavior by teaching new skills. A few of these programs also focus on the impact exposure to violence has on children and the development of non-violent parenting skills.

Intervention with perpetrators is one element in a larger network of services that helps to promote safety for adult and child victims. This intervention can take many forms, including police arrest of a perpetrator at the scene of the crime, court processes that may find him guilty and mandate him to receive social services,

child protection service plans that mandate compliance with recommendations of batterer intervention groups, and probation monitoring of his behavior. Research studies have shown that coordinated interventions are more effective in stopping domestic violence and that interventions that are not coordinated may increase risks to adult victims.⁷⁵

Recommendation 40.

Intervention programs for batterers should reexamine the contents of their procedures, policies, and curricula to ensure that both child and adult safety and well-being are integrated into programmatic activities.

Programs that work with perpetrators of adult domestic violence should review intake and assessment protocols to be sure that they include appropriate questions about child maltreatment. Clear guidelines should be set for staff about the reporting of maltreatment to child protection service agencies. Staff also should be trained regularly to question clients about child maltreatment and child safety and to intervene when children are at risk.

In some communities, batterer intervention programs have begun to integrate content about the impact of domestic violence on children, non-violent parenting, and responsible fatherhood into their group work curricula.⁷⁶ This integration of women's safety and children's safety issues should become a new standard of practice. Client responsibility plans regularly should include ways for men not only to keep women safe, but also to keep children safe.

Recommendation 41.

Working collaboratively with domestic violence service organizations, child protection services, juvenile courts, and diverse community organizations, batterer intervention programs should propose new funding, service, outreach, and monitoring strategies to reach more men who batter women and maltreat children.

Many perpetrators who batter women and maltreat children fail to reach intervention and education programs. Sometimes child protection services and the courts fail to refer them. In other cases, the men lack the funds to pay for services. In still other instances, they drop out of programs. In some communities, services are not offered in languages that most people speak. To solve this set of problems requires more funding support and new outreach and service strategies.

In Massachusetts, for example, the Department of Social Services has hired its own batterer intervention consultant to help child protection workers interview violent clients, determine the risk to children and adults, and develop appropriate safety and service plans. In this way, more men are reached and more children protected.

Many men of color lack access to culturally competent batterer intervention services in their own communities, and those who complete programs tend to be white.⁷⁷ Some batterer intervention programs are working collaboratively with communities of color to redesign services to meet client needs better. In these new, developing models, programs try to stop violence and simultaneously respond to the economic, cultural, and support needs of their clients.⁷⁸

Recommendation 42.

Batterer intervention programs, working collaboratively with law enforcement, courts, child protection agencies, and domestic violence agencies, should take leadership to improve the coordination and monitoring of legal and social service interventions for perpetrators in order to enhance safety, stability, and well-being for adult and child victims.

It is a common complaint in most communities that many men who batter women and maltreat children are not held accountable for their behavior.⁷⁹ For example, if a child protection worker refers a father who batters to an intervention program and he fails to attend it, this failure often is ignored by agencies helping the family and by the court. Staff in batterer intervention programs often express frustration that they have no leverage, and that the court exercises little leverage over men who batter and fail to comply with treatment plans. It is this set of problems that batterer intervention programs, in collaboration with other agencies, must take responsibility to articulate publicly.

Batterer intervention programs, domestic violence agencies, juvenile courts, criminal courts, and child protection services need to establish local mechanisms to discuss the importance of referrals to batterer intervention programs and to find ways for the courts more effectively to oversee and monitor child protection service plans for men who batter women and maltreat children.

Additionally, batterer intervention programs should develop letters of agreement with child protection agencies and juvenile courts so they can provide regular attendance and progress reports to these agencies.

Recommendation 43.

Batterer intervention programs should participate regularly in cross-training activities with the agencies and groups that deal with child welfare.

Many child welfare agencies have little exposure to the information that batterer intervention programs can provide them about violent clients. It is often extremely helpful to community service providers – and essential to the safety of child and adult victims – that these providers learn more about men who batter. Providers requiring more information include those in child protection services, juvenile courts, hospitals and clinics, legal assistance for women and children, CASA and GAL programs, visitation centers, children’s advocacy centers, tribal courts, organizations providing legal assistance to immigrant populations, psychological evaluation programs, forensic investigation units, and community agencies providing services to families referred by child protection services and the courts.

Similarly, batterer intervention program staff, whose interventions focus primarily on stopping adult domestic violence, can benefit enormously from the expertise of child welfare agencies in the community.

Chapter 5. – Courts:

A. Introduction

The juvenile court is a unique institution “unknown to our law in any comparable context.”⁸⁰ Originally created as a reform, the juvenile court combines social and legal attributes to serve public interests relating to children and families. The first juvenile court was established 100 years ago in Cook County, Chicago, Illinois. Its purpose was expressed in the Illinois statute in which legislators identified the subjects of the juvenile court as children for whom parenting has failed, children who are without the family structure necessary to assist them in their formative years, and children who have violated the criminal law. The basis for the interventions described in the statute is *parens patriae*, the state as parent. Under this doctrine, when the parent fails, the state has the legal power to substitute for the parent and to act on behalf of the child.

Over the next 50 years juvenile courts were created in every state and in the District of Columbia. Each state's juvenile court is unique in the way it is structured, in the powers granted to the juvenile court judge, and in the types of cases it hears. Nevertheless, there are substantial similarities in the ways that juvenile courts in all jurisdictions function. These similarities form the core of the juvenile court's jurisdiction.

The three types of cases that most commonly are associated with the work of the juvenile court deal with (a) delinquent children; (b) children who are “status offenders” (runaways, truants, and the ungovernable); and (c) abused, abandoned, and neglected children. While these are useful categories, they are arbitrary. No clear line separates the factual circumstances that might result in a child or family being in one type of these court proceedings as opposed to another. For example, a high percentage of runaway children have been the victims of physical or sexual abuse in the home⁸¹ and studies of delinquent children reveal that they have suffered child maltreatment at greater rates than either members of the general population or low-income Americans.⁸²

The juvenile court is that part of the trial court that addresses the needs of abused, abandoned, and neglected children. The purpose of the juvenile court has been expressed by one state legislature as follows:

“It is the intent of the Legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to protect children who are at risk of that harm. This protection includes provision of a full array of social and health services to help the child and family and to prevent re-abuse of children. That protection shall focus on the preservation of the family whenever possible.”⁸³

The legal focus on children who have been maltreated is a relatively recent phenomenon. While the case of Mary Ellen in 1874 was the first highly publicized child abuse action in the court system, it was not until 1961, when Dr. C. Henry Kempe published “The Battered Child Syndrome,” that the nation became serious about responding to allegations of child maltreatment.⁸⁴

After medical confirmation that some parents physically abuse their infants, states and the federal government responded with laws designed to detect and report maltreatment to child protection service (CPS) agencies,⁸⁵ which then would decide whether the matter was serious enough to refer to the juvenile court for legal intervention. The most significant legal development was the passage in every state of mandatory reporting laws, laws requiring professionals and others who regularly come in contact with children to report to a child protection authority incidents of child maltreatment. These laws, combined with heightened public awareness, led to a dramatic increase in reports of incidents of suspected child maltreatment. From 1985 to 1990 there was a 31 percent increase in reports of child maltreatment in the United States, reaching a total of 3.1 million reports in 1997.⁸⁶

Another important development occurred in 1980 when Congress passed federal legislation addressing maltreated children. The Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272, addressed three important issues: (1) the prevention of unnecessary foster care placements, (2) the reunification of children in foster care with their biological parents, and (3) the timely adoption of children unable to return home. That legislation and the state legislation following it included the following tenets:

- The state must provide services to prevent children's removal from their homes.
- Juvenile courts must make “reasonable efforts”⁸⁷ findings that the state has in fact provided services to enable children to remain safely in their homes before they are placed in foster care.

- Juvenile courts must determine whether the state has made “reasonable efforts” to reunite foster children with their biological parents.
- Juvenile courts must determine that a service plan is developed to ensure a child’s placement “in the least restrictive, most family-like setting available located in close proximity to the parent’s home, consistent with the best interests and needs of the child.”
- The juvenile court must ensure that the status of every foster child is reviewed regularly and that a child is given a timely permanent placement, preferably in an adoptive setting, if return to the biological parents is not possible.

In 1997 Congress passed the Adoption and Safe Family Act (ASFA), which further clarified federal policy concerning maltreated children and their families. The key tenets of ASFA, also mentioned in Chapter 3, reconfirm child safety as a principal goal of the child welfare system, force states to terminate parental rights of any parents whose children have been in foster care for 15 of the last 22 months, and allow juvenile courts to determine if “reasonable efforts” to enable children to reach a permanent home have been made. The new law releases the states from responsibility for providing “reasonable efforts” to parents of some children who have been removed.

Juvenile courts in the United States today have more than 500,000 children under their jurisdiction, and more than 1,000,000 children come to the attention of the court each year. The work of the juvenile court brings together a complex assortment of service providers, child advocates, attorneys, and community-based organizations, all of which focus upon the needs of children and their parents. The court remains the principal forum in which the decisions about America’s most vulnerable children are made.

While physical and sexual abuse and neglect are the main work of the court, addressing the impact of domestic violence upon children and other family members increasingly has become a part of the work of the juvenile court.⁸⁸ It has been known for some time that there is a significant overlap between child maltreatment and domestic violence⁸⁹ and that domestic violence can be a form of child maltreatment. In some juvenile courts, children’s exposure to domestic violence has been sufficient to establish that they were emotionally maltreated and need court protection.⁹⁰ In some states, legislation has been enacted which makes exposure of children to domestic violence a crime or a form of child abuse.⁹¹

As the effects of domestic violence become the focus of more juvenile court cases, all participants in the court system must understand the dynamics of this violence. Judges, attorneys, guardians *ad litem* (GAL), social workers, child advocacy centers, court staff, Court Appointed Special Advocates (CASA), and other social service providers need to understand the relationship between a batterer and a victim and what dangers exist for battered women and their children. They need to know what security precautions to take in and around the courthouse. Additionally, the juvenile court must be prepared to require child protection and social service agencies to provide carefully designed and culturally relevant services to protect domestic violence victims, to rehabilitate batterers, and to require that service providers work together on behalf of these victims.

This book, and in particular this chapter, focuses upon improving juvenile courts so they are prepared to address the complex issues presented when battered mothers and their children come before them. The following section examines: (1) improvements to the foundations of juvenile courts, (2) the leadership role that judges must play in initiating and institutionalizing changes, and (3) the specific changes needed in daily court and agency practice. Action in each of these areas is necessary to fulfill juvenile court obligations to children and their families. Although the emphasis in this book is on juvenile courts, domestic violence cases appearing in these courts may have parallel proceedings in criminal, civil, or family court. To achieve the best possible results for the child and family members, the juvenile court must coordinate its efforts with these other courts,

B. Juvenile Court Systems

Principle XIV.

Judges and other members of court systems should participate fully in national and local efforts to improve juvenile courts. Such efforts include participation in the national court improvement initiative, collaborating with national organizations such as the National Council of Juvenile and Family Court Judges (National Council) and the American Bar Association (ABA) and outstanding individual jurisdictions across the country.

The recognition of domestic violence within the child welfare system coincides with significant changes in the nation's juvenile courts. Court improvement initiatives funded by federal grants are underway in almost every state and model court projects are seeking to identify best practices across the country in order to provide technical assistance to juvenile court systems.⁹² Additionally, the Permanency Planning for Children Department of the National Council and the ABA are providing technical assistance to local juvenile courts across the country. The goal of these initiatives is to improve juvenile courts, so they can fulfill the federal and state legislative mandates of keeping children safe, preserving families, and providing permanency for children.

Recommendation 44.

Juvenile courts must have sufficient judicial and staff resources to allow appropriate time and attention for each case.

The juvenile court is a complex legal institution with a challenging set of legal mandates, numerous participants, and strict timelines. These courts preside over critical issues involving child maltreatment, keeping children safe, preserving families, and permanency planning for children. The Resource Guidelines⁹³ published by the National Council have developed a comprehensive set of standards relating to the level of resources needed by individual courts, including the time necessary for each type of court hearing. In order to meet these timelines and give each case the judicial attention it needs to satisfy legal mandates, juvenile courts must have sufficient judicial, staff, and information/data resources as well as building space and amenities to make the court accessible and comfortable.

Recommendation 45.

Juvenile courts must treat each case with the highest priority, ensuring that safe placements and services are identified immediately and that safety-enhancing orders are made for children and other family members.

The developmental needs of children and the devastating impact of child maltreatment have led to the creation of strict timelines for processing dependency cases. Juvenile courts are mandated to reach permanency for children within twelve months. They also must ensure that adequate and timely services are provided to all family members and that cases are heard according to statutory timelines.

Recommendation 46.

Judges and court systems should adopt recognized best practices in administering the juvenile court.

Best practices include the following:

- Judges should ensure that their courts are well managed, accessible to the public, and safe.
- Judges should promote a culture of patience and courtesy throughout the court system so that professionals treat all clients and each other with dignity and respect.
- One judge should hear a case from beginning to end (from initial hearing through return home or adoption), thus maximizing oversight and minimizing the possibility of lost information, which often occurs when cases are moved among judicial officers.
- The court should take sufficient time to examine each case carefully and then regularly review each case to ensure that court orders are carried out by the parents and by the social service agency and other service providers.
- The judge should utilize the new priority of safety over reunification in federal law to provide for the safety of children first.
- The judge should utilize the reasonable efforts provisions of state and federal law to hold the social service or child protection service agency accountable for the timely provision of appropriate services to family members.
- The judge should ensure that each parent and child has competent legal representation throughout the entire legal process.

- The judge should make certain that court proceedings are coordinated with other proceedings in which the family may have legal business and that relevant information from these proceedings is shared among the courts.
- The judge should encourage the same CPS caseworker and attorney for the children and parties to appear at all hearings on the case.

Other sources for best practices can be found in the Resource Guidelines, publications by the ABA and the National Council, and from selected authors.⁹⁴

Recommendation 47.

The juvenile court should ensure that all participants in the court system are trained in the dynamics of domestic violence, the impact of domestic violence on adults and children, and the most effective and culturally responsive interventions in these cases including safety planning.

Training, and particularly cross-training, is critical to all court systems. The participants in any training should include all judicial officers, court staff, attorneys, GALs, CASAs, domestic violence service providers, victim advocates, social workers, mental health providers, and the staff of agencies in the community that provide services to families. Often this will not occur unless judges take the lead in mandating that all members of the court system participate in this training. For example, judges can make such training a condition of court appointment and representation in these cases.

Recommendation 48.

In jurisdictions where mediation is mandated or permitted, the juvenile court should refer parties to mediation in child maltreatment cases involving allegations of domestic violence only when

- a. mediators are trained thoroughly in the dynamics of domestic and family violence including child maltreatment, as well as trained in the dynamics of substance abuse, basic psychology and family systems theory, the developmental needs of children, the workings of the local child protection and juvenile court systems, local domestic violence services, and other local community resources;
- b. the mediation program provides specialized procedures designed to protect victims of domestic violence from intimidation by alleged perpetrators and to correct power imbalances created by the violence with interventions, including the performance of differential assessments of the domestic violence issue, the offering of individual – as opposed to conjoint – sessions for the victim and alleged perpetrator so that they never have direct contact with each other, and permitting the victim to have an advocate in attendance throughout the process;
- c. the mediation process also provides for the participation of victim and child advocates, the child protection agency, other interested family members and individuals, as well as all involved attorneys and GALs or CASAs, to reinforce further the balance of power and ensure that the rights of the participants are protected in the search for a resolution that focuses upon the safety and best interest of the child and the safety of all family members;
- d. mediators are vigilant when involved in discussions concerning the factual basis of the abuse of the child or victim-parent in order to prevent victim blaming and/or collusion with the batterer's denial, minimization, or discounting of the significance of the violence or abuse.

Some courts have developed alternative dispute resolution (ADR) techniques to help parties resolve juvenile dependency cases without resorting to formal legal proceedings. Arbitration, settlement conferences, and mediation are three such techniques. In the context of court improvement efforts, mediation is the fastest growing form of ADR, as many juvenile courts are implementing mediation programs to be utilized in selected child welfare cases.

Dependency mediation is a form of ADR that involves the intervention of one or two highly trained mediators to assist the contending parties (i.e., the parents, parent and child advocates and attorneys, social worker, and other interested family members and participants) in reaching their own mutually acceptable settlement of the issues in a non-adversarial setting.

Concern has been expressed that mediation is a process which is unfair and unsuited for cases involving domestic violence in that, when battered women are asked to negotiate with their batterers, the balance of power weighs heavily against them, and the mediation process itself can actually be dangerous or result in inappropriate outcomes due to these factors. In some communities, mediation may be seen as an intrusive

means of resolving family problems if cultural or religious values are not integrated well into the mediation process. Language barriers may compromise the effectiveness of mediation and place victims at risk if they are unable to communicate their concerns about safety or they do not understand the process fully. Some mediations are conducted by inadequately trained mediators who are insensitive to the dynamics of domestic violence, and others fail to incorporate appropriate safeguards and procedures.

However, where mediation is mandated or permitted, if it is conducted in accordance with the guidelines described in this section, the process can effectively empower victims of violence and enhance their safety as well as the safety of their children and other family members.⁹⁵ Judges have an obligation to oversee the provision of any mediation services to ensure that mediation is conducted consistent with these guidelines.⁹⁶

Recommendation 49.

Any proposed caretakers for the children, including the non-custodial parent, any relative or kin, or foster parent, should be assessed for child maltreatment, criminal history, domestic violence, substance abuse, and their willingness to work with the court, social service agencies, and the battered woman concerning the needs of the children.

It is basic social work practice to assess any potential caretakers for their ability to provide a safe, nurturing environment before a child is placed in their care. Many state statutes require that the assessment include criminal history and child maltreatment history. Judges also should insist that the assessment include domestic violence and substance abuse. See also Chapter 3, Recommendation 24, for more detail.

It is essential that the non-custodial, biological father of the child be identified and brought before the court at the earliest possible time. Often the battering partner is not the biological father of the child. In these cases the biological father may be a proper caretaker for the child, but he must be assessed to determine whether he can provide safe care for the child.

Recommendation 50.

Courts should consider the victimization of the parent as a factor in determining whether exceptional circumstances exist to allow extension of the reunification time limits. However, no such extension of time should be permitted if it is contrary to the best interests of the child.

The experience of victimization for battered women is one from which recovery can be slow and painful. Even after the mother is in a safe environment, reunification plans or service plans must allow sufficient time for healing to occur. Courts must ensure that such plans are established as soon as possible in the legal process, that the services are immediately available, and that they are practical. Burdensome plans and delays in the delivery of services can increase the chances of failure. If the court decides to extend the time for reunification, the extension must be made in the context of federal and state laws, and the best interests of the child must always prevail.

Recommendation 51.

Juvenile courts must collaborate with other courts that are dealing with family members and others involved in the case. Juvenile courts should coordinate with criminal courts to help ensure that perpetrators of violence are held accountable. Juvenile courts should coordinate with civil courts that can provide protection orders for the safety and well-being of family members. Juvenile courts also should coordinate with domestic relations and family courts to identify safe visitation, financial support, and custody arrangements that are in the best interests of the child and the victimized parent.

A family's legal business rarely is confined to one court. Domestic violence cases can appear in criminal court, civil court, and domestic relations or family court, as well as in juvenile court. Juvenile court judges and other members of the juvenile court system must be aware of related court proceedings and the agencies that work with those courts. In that way the juvenile court can enhance its ability to reach its goals of child safety and protection, family preservation, and permanency.

To this end juvenile courts should coordinate with criminal courts and probation departments, civil courts, and domestic relations and family courts, all of which may have parallel legal proceedings affecting different family members.

Specifically, juvenile courts should communicate with the criminal justice system in order to learn about conditions of probation, violations of restraining orders and other court orders, and should also be prepared to exchange information about juvenile court orders. When a parent is on probation to the criminal court, it is particularly important that the juvenile court understand the nature of the conviction, the terms of probation, and other information having an impact on the well-being of the child and parents.

Recommendation 52.

When courts and agencies exchange information concerning family members, the safety and privacy concerns of all parties must be balanced carefully with the need for access to such potentially harmful information.

Although it is important for the juvenile court to coordinate with criminal, civil, domestic relations, and family courts concerning parallel legal proceedings involving family members, precautions must be taken with the information that is shared. Much of the information is legally protected, and there are good reasons for restricting access to juvenile court records. Certain information, such as the location of the victim and/or children, may have to be kept confidential. Some information may contain privileged communications that should not be communicated to other courts. The juvenile court is the gatekeeper for a great deal of confidential and sensitive information. The court must accept the responsibility to safeguard the information, particularly in the context of cases in which one parent is violent and threatening towards the other.

Principle XV.

The person who is responsible for the operation of the juvenile court is the judge. All participants in the juvenile court look to the judge for leadership in reaching the goals and mandates of the juvenile court law. The judge must accept leadership responsibility for ensuring that the goals of the juvenile court law are realized.

The juvenile court judge has a critical role in the life of the maltreated child and in that of the child's parents. The judge must exercise the full authority of the court in order to ensure that the child and other family members are protected and appropriate services are provide to all family members. But the judge's role does not end with careful attention to individual cases. Additionally the judge is the leader of the juvenile court system and must lead that system to accomplish the goals of the juvenile court law.

The manner in which judges manage the juvenile court, from the physical environment to communication and conduct during a hearing and from access to court to providing behavioral expectations, may have a positive or negative effect on the expected behavior of the parties and the ultimate outcome of the case. To improve compliance with judicial orders, augment the role of the juvenile court in protection, and avoid the unintended consequences of placing burdens on a victim of domestic violence or enhancing violent behaviors, judges must understand the dynamics of domestic violence and appreciate the importance of their role as leaders of the court system. The best practices listed in this section outline the ways in which judicial behavior and leadership can make a significant difference in how these cases are managed.

Recommendation 53.

The juvenile court should take a leadership role within the court system and with court-serving agencies to ensure cooperation among all parts of the juvenile court system, identify needed resources to serve families experiencing domestic violence, and develop strategies to obtain these resources.

The impact of domestic violence upon non-abusive parents and their children is an emerging issue in the juvenile court. Domestic violence service providers rarely appear in juvenile court, and they infrequently are included as a part of juvenile court service plans. The juvenile court judge can take the lead to create working relationships between social workers and other service providers by convening them and other service providers and insisting that they work together on behalf of the children and families appearing in court.

In addition to child protection workers, social workers, and domestic violence service providers, others who can assist in the process include probation officers, mental health, drug and alcohol counselors, CASAs, GALs, custody evaluators, visitation and supervised exchange program staff, attorneys who represent parents and children, safe housing representatives, law enforcement, and medical personnel. These groups should direct their efforts to identifying best practices, developing protocols and services, and agreeing on the manner by which information can be exchanged.

Recommendation 54.

Judges should collaborate with state and local child protection service administrators and domestic violence program directors to determine what resources must be made available in the community to meet the needs of victims and perpetrators of domestic violence.

Judges should inform state and local legislative bodies that the lack of community resources often presents severe barriers for battered women trying to achieve safety for themselves and for their children, thus creating the necessity for expensive and sometimes traumatic out-of-home placements for children. Courts should require that the social service agency make reasonable efforts to provide a safe environment for the child and battered woman and other critical resources such as substance abuse and mental health services.

Recommendation 55.

Juvenile courts should have specific powers to enable them to ensure the safety of all family members.

These should include the power to

- Issue protection orders for adults and children, including the power to remove a perpetrator of domestic violence from the home;
- Issue visitation orders;
- Issue custody orders when the dependency case is to be dismissed;
- Establish paternity;
- Make child support orders;
- Hold a non-parent accountable for violent or dangerous acts, after notice and an opportunity to be heard;
- Order protective services for children and battered women;
- Enforce its orders.

Juvenile courts should be empowered to address and resolve all of a family's problems before one court. Litigants should expect that their legal business can be conducted in one court setting. It is poor practice and potentially dangerous to victims to require them to go to different courts to get the legal protection they need. Excellent models of court coordination exist.⁹⁷

Juvenile courts should not rely too heavily on protective orders if the non-abusive parent does not wish to have the perpetrator removed from the home or fears that such an order would increase the danger to her and her children. In cases where a non-abusive parent has been given a fair opportunity to understand the options and services available to her but she chooses to remain with a perpetrator, it may be necessary, as a last resort, for the court to remove the child from parental care until safety of the adults and children in the family can be ensured.

Recommendation 56.

Judges should use their judicial powers, including utilizing the "reasonable efforts" requirement of state and federal law, to see that social services provide adequate efforts to ensure safety for child and adult victims of domestic violence.

The juvenile court judge has unique powers in dependency cases, powers which derive from the court's obligation to oversee service delivery by child protection and by the child welfare or social service agency. The juvenile court must be prepared to utilize all of those powers including finding that the agency did not exercise reasonable efforts in providing services to the child or parents. In domestic violence situations, the

juvenile court should expect the agency to utilize domestic violence services in the community to protect battered women and their children from further violence and to identify services to rehabilitate batterers. These might include emergency shelter, safety planning, support groups, transitional housing, job training, and certified batterer intervention programs.

Recommendation 57.

When there is domestic violence in child protection cases, judges should make orders which

- a. keep the child and parent victim safe;
- b. keep the non-abusive parent and child together whenever possible;
- c. hold the perpetrator accountable;
- d. identify the service needs of all family members, including all forms of assistance and help for the child; safety, support, and economic stability for the victim; and rehabilitation and accountability for the perpetrator;
- e. create clear, detailed visitation guidelines which focus upon safe exchanges and safe environments for visits.

Judges can accomplish a great deal to protect children and support parents who are victims of domestic violence. In many cases these orders can both protect the child and maintain the important parent-child relationship.

Juvenile courts do not have the same powers as criminal courts. Juvenile courts ordinarily cannot imprison the litigants who appear before them. That is because the juvenile court has jurisdiction over the child and not over the parent. Accountability for criminal conduct is the job of the criminal court. Juvenile courts should inform abusive parents that failure to change their behavior will result in loss of rights of custody and visitation, may lead to termination of parental rights and may lead to criminal prosecution, albeit in a different court setting.

Principle XVI

All members of the juvenile court system must adopt best practices for the management of cases involving child maltreatment and domestic violence.

The experience in courts throughout the country has led to the development of best practices for dealing with all aspects of juvenile dependency law including cases involving child maltreatment and domestic violence. Some of these best practices are listed below.

Recommendation 58.

The petitioner in child protection proceedings should allege in petitions or pleadings any domestic violence that has caused harm to a child.

The inclusion of domestic violence allegations within the juvenile court petition is necessary in order to access legal and social remedies for the protection of the child and the battered mother. The juvenile court should insist that a petition alleging "failure to protect" on the part of the battered mother also allege efforts that the mother made to protect the children; the ways in which the mother failed to protect, and the reasons why; and should identify any perpetrator who may have prevented or impeded her from carrying out her parental duties.

Recommendation 59.

Juvenile court jurisdiction should be established on the sole basis that the children have witnessed domestic violence only if the evidence demonstrates that they suffered significant emotional harm from that witnessing and that the caretaker or non-abusing parent is unable to protect them from that emotional abuse even with the assistance of social and child protection services.

Increasingly a unique type of case is coming before the juvenile court, as case in which the child is alleged to have been victimized by watching or being exposed to one parent being beaten by another adult in the home. Because these children may be attached significantly to the victim, to remove them would re-victimize both the children and the non-abusive parent.

The juvenile court should take formal jurisdiction over such cases only when it is proven that the child suffered significant emotional harm from witnessing domestic violence. Thereafter, the court should remove a child from the non-abusive parent's care only if it is proven by clear and convincing evidence that the care taking parent is unable to protect the child, even with the assistance of social and child protection services. To this end the court must be prepared to insist that services such as safe housing be available for the victim-parent and the children.

Additionally, the juvenile court should work with child welfare and social service agencies, domestic violence service providers, and community-based organizations to identify support, including appropriate mental health and other services, for both the adult victim and the children who witnessed the violence. In this respect the California Victim Witness law is a model for all states. Using monies collected from convicted criminal defendants, crime victims are entitled to mental health services up to \$10,000 over their lifetime. There need not be a criminal prosecution, only proof that some criminal activity took place. Further, a child who witnessed domestic violence is eligible for these funds.⁹⁸

Recommendation 60.

The juvenile court should prioritize removing any abuser before removing a child from a battered mother.

Removing the risk of maltreatment is a basic principle in child welfare and juvenile dependency work. When a child is endangered because of violence towards a parent by the other parent or parent figure, the juvenile court first should consider removing the batterer before ordering the more traumatic intervention of removing the child. Family preservation does not mean keeping the entire family intact. In many situations, part of the family can be preserved by removing the abuser and keeping the battered parent and child together.

If the non-abusive parent does not wish to have the perpetrator removed from the home and the court is without the authority to order such a removal, it may be necessary for the court to remove the child from parental care. This should be done only after the non-abusive parent is given a fair opportunity to understand all of the options, including the services available to her.

Recommendation 61.

The juvenile court should work with child welfare and social service agencies to ensure that separate service plans for the perpetrator and the victim of domestic violence are developed.

In juvenile dependency cases, service plans address the steps parents need to take to maintain or regain custody of their child. Perpetrators of violence and victims have distinctively different issues to address and should have separate service plans that reflect those differences. Different service plans are necessary because, in almost every respect, the parents have different tasks to complete in order to demonstrate that they are capable of raising the child safely. In the past, many service plans have required them to do the same things, without reflection on their individual needs.

For example, the service plan for a victim of domestic violence should include support services, access to counseling and a domestic violence victim's support group, safety planning, safe visitation exchange planning (if visitation is ordered), safe housing, job training, parenting classes, referrals to specialized services such as welfare and help for immigrant women, and whatever else is needed reasonably to meet the victim's needs. The service plan for a perpetrator of domestic violence must include a batterer intervention program, clear guidelines on what contact the perpetrator may have with the child and with the victim, parenting classes, job training; counseling and substance abuse assessment and treatment, if appropriate, as well as other needed services.

Recommendation 62.

Juvenile courts should know what batterer intervention services are available in the community and the quality of those services and should be able to track the progress of any parent who is ordered to participate in those services.

In many cases the most important service identified for the perpetrator of domestic violence will be a batterer intervention program. Although some states have legislated minimum standards for such programs,⁹⁹ in many other states there is no standardization. Thus it is important that the judge know the quality of such programs, how long they last, and what results to expect from clients who complete the program. Additionally, it is critical that the judge receive regular status reports on the client's participation in the program, including information on attendance, attitude, knowledge of the material, and behavior change. The program also may be able to provide an assessment regarding future risk to the child and battered woman. While such predictions are not scientific, a summary of risk factors may assist the juvenile court in making the difficult reunification and contact decisions.

Recommendation 63.

The juvenile court should work with child protection and other social service providers to identify extended family members and resources as early as possible in domestic violence cases.

The first source of support for children and parents in child maltreatment cases is often extended family members. Good social work practice is to identify and assess all family members as soon as a case comes to the attention of child protection or social services. Not all family members may be helpful to resolve the issues presented in the matter being investigated, but often the extended family can assist in working out a safe plan for the child and the battered woman. Family group conferences have been particularly helpful for some families.¹⁰⁰ No family group conference should be held, however, if it would jeopardize the safety of the child or parent. See also the related discussion in Recommendation 49 above.

Recommendation 64.

Generally judges should not order couples counseling when domestic violence has occurred.

Couples counseling is a frequently utilized service that brings couples together with a counselor to discuss issues that they have been unable to resolve privately. Where there has been violence between the parties, however, couples counseling can be unfair to the victim of the violence and even dangerous. Juvenile courts must not refer couples to such counseling without careful attention to the needs and desires of the battered woman. See also the related discussion in Recommendation 23.

Recommendation 65.

The juvenile court should require that safe visitation and visitation exchange locations be utilized so that supervised visits and exchanges will be safe for the child and for the battered woman.

Every community must have a safe location for visitation and for the exchange of children between parents. Unsupervised public exchanges in places such as McDonalds and even local police stations can be opportunities for intimidation and emotional abuse and can be very dangerous. When parents and children are separated, visitation is a critical part of most service plans. But visitation can be the occasion for further violence, particularly when the victim and perpetrator have contact. It is essential that the juvenile court ensure a safe visitation site both for the child and for the battered woman. Supervised visitation programs and plans must also take into account the age of the children and must ensure that the plans are developmentally appropriate. Judges can enforce this recommendation through the reasonable efforts provision of state and federal law.

Recommendation 66.

Judges should appoint separate attorneys for each parent in dependency cases involving domestic violence. In compliance with the requirements of the Child Abuse Prevention and Treatment Act (CAPTA),¹⁰¹ a GAL or attorney should be appointed for the child as well. The court should set standards for competent, well-trained attorneys.

When domestic violence is alleged within a family, one attorney cannot represent both parents. The attorney would be unable to represent the positions of both parties. The juvenile court must appoint a separate attorney for each parent in these cases. Further, in compliance with CAPTA, the juvenile court must appoint a GAL or attorney for each child who appears in a dependency proceeding. Judges should ensure that appointed counsel have been specially trained and are competent in the area of domestic violence by setting standards for court appointment.

Recommendation 67.

The juvenile court should encourage the utilization of a domestic violence victim advocate for the battered mother in all dependency cases involving allegations of domestic violence and encourage the input of advocates in development of services plans.

Battered mothers need support as they participate in juvenile court proceedings. Many communities provide domestic violence victim advocates for victims as they attempt to secure civil restraining orders and when they appear in criminal court.¹⁰² It is important that battered mothers have domestic violence victim advocate in juvenile court as well. In addition, advocates can provide invaluable insight and suggestions for realistic and successful service plans. Judges can ensure that the necessary parties have helped to develop the plan. The experience in the Miami-Dade County Juvenile Court has highlighted the value of these advocates in securing safer placements for children and increasing the possibilities of placement with their mothers.¹⁰³

End Notes

¹ Ganley, A. & Schechter, S. (1996) *Domestic Violence: A National Curriculum for Child Protective Services*. San Francisco: Family Violence Prevention Fund, (p. 5). Because domestic violence or battering is a pattern of behavior primarily carried out by males, and because the overwhelming number of primary caretakers for children are female, the terms battered woman or mother are used frequently in this publication to refer to the adult victim of domestic violence. However, adult and adolescent heterosexual and homosexual males and lesbians also experience the pattern of assaults and coercion commonly identified as domestic violence or battering.

² National Research Council. (1993). *Understanding Child Abuse and Neglect*. Washington, DC: National Academy Press.

³ Appel, A.E. & Holden, G.W. (1998). The co-occurrence of spouse and physical child abuse: A review and appraisal. *Journal of Family Psychology*, 12(4), 578-599; Edleson, J.L. (1999a). The overlap between child maltreatment and woman battering. *Violence Against Women*, 5(2), 124-154.

⁴ Berliner, L. & Elliot, D.M. (1996). Sexual abuse of children. In J. Briere, L. Berliner, J.A. Bulkley, C. Jenny & T. Reid (Eds.), *The APSAC Handbook on child maltreatment* (pp. 51-71). Thousand Oaks, CA: Sage Publications; Kolko, D.J. (1996). Child physical abuse. In J. Briere, L. Berliner, J.A. Bulkley, C. Jenny & T. Reid (Eds.), *The APSAC Handbook on child maltreatment* (pp. 21-50). Thousand Oaks, CA: Sage Publications.

⁵ Erickson, M.F. & Egeland, B. (1996). Child neglect. In J. Briere, L. Berliner, J.A. Bulkley, C. Jenny & T. Reid (Eds.), *The APSAC Handbook on child maltreatment* (pp. 4-20). Thousand Oaks, CA: Sage Publications.

⁶ Peled, E. (1993). *The Experience of Living with Violence for Preadolescent Child Witnesses of Woman Abuse*. Unpublished doctoral dissertation. University of Minneapolis.

⁷ Id. at p. 103.

⁸ Id. at p. 114.

⁹ See Edleson, J.L. (1999b). Children's witnessing of adult domestic violence. *Journal of Interpersonal Violence*, 14(8), (Forthcoming August 1999); Holtzworth-Munroe, A., Smutzler, N. & Sandin, B. (1997). A brief review of the research on husband violence. Part II: The psychological effects of husband violence on battered women and their children. *Aggression and Violent Behavior*, 2, 179-213; Margolin, G. (1998). Effects of witnessing violence on children. In P.L. Trickett and C.J. Schellenbach (Eds.), *Violence against children in the family and the community* (pp. 57-101). Washington, DC: American Psychological Association; Peled, E. & Davis, D. (1995). *Groupwork with Children of Battered Women: A Practitioner's Manual*. Thousand Oaks, CA: Sage Publications.

¹⁰ Edleson, 1999b.

¹¹ For a review, see Dutton, M.A. (1992). *Empowering and Healing the Battered Woman*. New York; Springer.

¹² Tjaden, P. & Thoennes, J. (1998, November). *Prevalence, incidence, and consequences of violence against women: Findings from the National Violence Against Women Survey* (p. 8). Washington, DC: National Institute of Justice and Centers for Disease Control and Prevention.

¹³ Jones, A. & Schechter, S. (1993). *When Love Goes Wrong: What To Do When You Can't Do Anything Right* (p. 254). New York: Harper Collins.

¹⁴ See Davies, J., Lyon, E. Y Monti-Catania, D. (1998). *Safety Planning With Battered Women: Complex Lives/Difficult Choices*. Thousand Oaks, CA: Sage Publications.

¹⁵ Ibid.

¹⁶ Hilton, N.Z. (1992). Battered Women's Concerns About Their Children Witnessing Wife Assault. *Journal of Interpersonal Violence* 7, 77-86; Humphries, J. (1995). The work of worrying: Battered women and their children. *Scholarly Inquiry for Nursing Practice*, 9(2), 127-145.

¹⁷ Throughout this publication the term "juvenile court" is used to refer to the trial court with jurisdiction over child maltreatment cases, even though it is called by various names in different jurisdictions.

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- ¹⁸ Federal Interagency Forum on Child and Family Statistics (1998). *America's Children: Key National Indicators of Well-Being*. Washington, DC: U.S. Government Printing Office.
- ¹⁹ National Council of Juvenile and Family Court Judges. (1998). *Family Violence: Emerging Programs for Battered Mothers and Their Children*. [hereinafter *Emerging Programs*].
- ²⁰ See id. at 127-130.
- ²¹ Schechter, S. Gary, L.T. (1992). *Healthcare Services for Battered Women and Their Abused Children: A Manual About AWAKE*. Boston: Children's Hospital.
- ²² National Association of Public Child Welfare Administrators. (1999). *Guidelines for a Model System of Protective services for Abused and Neglected Children and Their Families*.
- ²³ Child Welfare League of America. (1999). *Standards of Excellence for Services for Abused or Neglected Children and Their Children*.
- ²⁴ Farrow, F. (Executive Session on Child Protection), (1997). Child Protection: Building Community Partnerships. Boston: Harvard University, John F. Kennedy School of Government. Harvard University. See also parallel recommendations in *Guidelines for a Model System*, supra note 22.
- ²⁵ See Bailey, C (1994). Statewide Family Violence Coordinating Councils. Courts and Communities: Confronting Violence in the Family 1(2), 6-7, NCJFCJ. (1995). Family Violence Coordinating Councils. Courts and Communities: Confronting Violence in the Family, 1(3), 8-9. Edwards, L. (1992). Reducing Family Violence: The Role of the Family Violence Council. *Juvenile & Family Court Journal*, 43(3), 1-18; and Hart, B. (March 31, 1995). Coordinated Community Approaches to Domestic Violence (presented at the Strategic Planning Workshop on Violence Against Women, National Institute of Justice, Washington, DC).
- ²⁶ Emerging Programs, supra note 19.
- ²⁷ See Emerging Programs, supra note 19, at 15-19.
- ²⁸ See Emerging Programs, supra note 19, at 116-117.
- ²⁹ See Emerging Programs, supra note 19, at 35-39.
- ³⁰ Cole, B. (April 14, 1999). Collaborations among child protection services, domestic violence programs, juvenile courts, and community agencies and residents. Interview.
- ³¹ Cross, T.L. (1988). Services to Minority Populations: Cultural Competence Continuum. *Focal Point*, 3(1), 1-4.
- ³² Green, J.W. (1999). *Cultural Awareness in the Human Services: A Multi-ethnic Approach*. Needham Height, MA: Allyn and Bacon.
- ³³ Domestic violence training and materials should include information on the dynamics and legal definitions of domestic violence; the impact of domestic violence on children; the overlap between domestic violence and child maltreatment; domestic violence screening and risk assessment; interviewing victims and perpetrators; safety planning for victims; service planning for domestic violence victims and perpetrators; use of legal remedies to protect adult victims and children; holding perpetrators responsible; and establishing collaborative relationships with local victim and perpetrator programs.
- ³⁴ Child maltreatment training and materials should include information on child development; the dynamics and legal definitions of child maltreatment; mandates of the state child protection agency; screening, investigation, assessment, service planning, and referral procedures of child protection services; limitations of state agency intervention; role and authority of juvenile court; interviewing children and their parents; helping parents who are maltreating their children; using a visitation setting; effective collaboration in child maltreatment cases; and using community agencies to help children and families.
- ³⁵ Related issues include case management strategies; delivery of culturally competent services; substance abuse dynamics and screening; overlaps between domestic violence, child maltreatment, and juvenile delinquency; established procedures and policies for information sharing; courtroom service for victims, offenders, children, and witnesses; the impact of personal attitudes regarding race, class, gender, ability, age, and sexual orientation on courtroom demeanor; available sanctions and intervention standards for offenders; understanding outcomes of perpetrator treatment and criteria to assess perpetrator change; elements of a good protection order; varying burdens of proof; how to be an expert witness; effectiveness of coordinating or consolidating civil, criminal, and domestic cases involving members of the same family; and needed shelter, support services, and economic resources for victims and their children.

³⁶ This can be developed by providing training and professional development programs for personnel at all levels; recruiting, hiring, and supporting people of diverse backgrounds; establishing and enhancing norms that stress treating all people with dignity and respect; challenging ingrained assumptions and biases and making a commitment to resist them; and developing procedures to obtain feedback from and involve consumers and local communities.

³⁷ The development of cultural responsiveness should result in individual practitioners who are: aware of their own assumptions about people from diverse communities and other income levels and make a commitment to resist any biases; willing to treat each individual and family as a valued member of the community; open to new cultural experiences without being judgmental; able to individualize practice to reflect the uniqueness of the client; and able to avoid stereotyping by recognizing that there is diversity within all communities.

³⁸ Davies, J. (1998). *The New Welfare Law: Implications for Battered Women – Introduction to the Law, Welfare and Domestic Violence Information Series, Paper #1*; *The New Welfare Law: State Implementation and Use of the Family Violence Option, Welfare and Domestic Violence Information Series, Paper # 2*. national Resource Center on Domestic Violence.

³⁹ Some form of domestic violence victim advocate/counselor privilege currently exists in Alabama, Alaska, California, Florida, Hawaii, Illinois, Iowa, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, Oklahoma, Pennsylvania, and Wyoming. See generally, Zorza, J. (1995). Recognizing and Protecting the Privacy and Confidentiality Needs of Battered Women, *Family Law Quarterly*, 29(2), 273-311.

⁴⁰ See Edleson, J.L. & Bible, A.L. (forthcoming 1999). Forced bonding or community collaboration? Partnerships between science and practice in research on woman battering. *National Institute of Justice Journal*.

⁴¹ The Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5106g(2)(1974).

⁴² Sedlack A.J. & Broadhurst D.D. (1996). *Third National Incidence Study of Child Abuse and Neglect: Final Report*. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, national Center on Child Abuse and Neglect.

⁴³ Special procedures under the Indian Child Welfare Act of 1978 govern foster care, preadoptive, and adoptive placements for Native American children. Child welfare agencies and courts need to notify the appropriate tribal agency and turn jurisdiction over to them for Indian children needing placement, unless there is good reason not to do so.

⁴⁴ Aron, L. & Olson, K. (1997). *Efforts by Child Welfare Agencies to Address Domestic Violence: The Experiences of Five Communities*, (pp. 91-111). Washington, DC: The Urban Institute.

⁴⁵ *Id.* at 48-70.

⁴⁶ *Id.* at 16-31.

⁴⁷ *Id.* at 71-90

⁴⁸ See *Emerging Programs*, *supra* note 19, at p. 25.

⁴⁹ National Council of Juvenile and Family Court Judges. (1996). *Family Violence: Legislative Update*, Volume 2 (pp. 24, 29). Reno, NV: Author.

⁵⁰ *Id.* at 39, 72.

⁵¹ *Id.* at 29, 50.

⁵² National Council of Juvenile and Family Court Judges. (1996). *Family Violence: Legislative Update*, Volume 3 (pp. 59). Reno, NV: Author.

⁵³ *Family Violence: Legislative Update*, Volume 2, *supra* note 49, at p. 66.

⁵⁴ See *Emerging Programs*, *supra* note 19, at 89-91.

⁵⁵ See, e.g., Brannen, J.J. & Rubin, A. (1996). Comparing the effectiveness of gender-specific and couples groups in a court-mandated spouse abuse treatment program. *Research on Social Work Practice*, 6, 405-424.

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- ⁵⁶ Hart, B. (1990). Gentle Jeopardy: The Further Endangerment of Battered Women and Children in Custody Mediation. *Mediation Quarterly*, 7(4), 317-330; Lerman, L.G. (1984). Mediation of Wife Abuse Cases: The Adverse Impact of Informal Dispute Resolution on Women. *Harvard Women's Law Review*, 7, 57-113.
- ⁵⁷ National Research Council. (1998). *Violence in Families: Assessing prevention and treatment programs*. Washington, DC: National Academy Press.
- ⁵⁸ See generally, National Resource Center on Domestic Violence. (April 1999). Family Violence Prevention and Services Act (FVPSA) Allotments to States and Territories FFY 1995-1999. [chart showing the amount of FVPSA funding that goes to states to support community-based services].
- ⁵⁹ See generally, Hart, B. (1992). State Codes on Domestic Violence: Analysis, Commentary and Recommendations. *Juvenile & Family Court Journal*, 43(4).
- ⁶⁰ National Research Council, supra note 57.
- ⁶¹ Austin, J.B. & Dankwort, J. (1997). A review of standards for batterer intervention programs. Harrisburg, PA: VAWnet – the National Electronic Network on Violence Against Women (available online at <http://www.vaw.umn.edu/bip.asp>).
- ⁶² See Pence, E. & Shepard, M. (in press). *Coordinating community responses to domestic violence: Lessons from Duluth and beyond*. Thousand Oaks, CA: Sage Publications.
- ⁶³ See *Emerging Programs*, supra note 19, at p. 133.
- ⁶⁴ Bailey, Statewide Family Violence Coordinating Councils; NCJFCJ, Family Violence Coordinating Councils; Edwards, Reducing Family Violence: The Role of the Family Violence Council, supra note 25.
- ⁶⁵ Beeman, S. & Edleson, J.L. (1995). Child Protection and Battered Women's Services: From Conflict to Collaboration. *Child Maltreatment*, 4(2), 116-126.
- ⁶⁶ Schechter, S. & Edleson, J.L. (1995). In the Best Interest of Women and Children: A Call for Collaboration between Child Welfare and Domestic Violence Constituencies. *Protecting Children*, 11(3), 6-11.
- ⁶⁷ Heller, J., Gyurina, D.H. & Rosenbaum, M. (1997). *Survey of Department of Social Services Social Workers, Supervisors and Area Program managers on the Use of the Domestic Violence Specialists, Domestic Violence Protocols and Understanding of Domestic Violence in DSS Caseloads*. Boston, MA: Massachusetts Department of Social Services.
- ⁶⁸ See *Emerging Programs*, supra note 19, at 15-19; Aron & Olson, supra note 44, at 48-70.
- ⁶⁹ See *Emerging Programs*, supra note 19, at 116-117.
- ⁷⁰ *Id.* at 31-32.
- ⁷¹ See, e.g., Orloff, Jang & Klein. (1995). With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women. *Family Law Quarterly*. 29(2), 313-329.
- ⁷² See *Emerging Programs*, supra note 19, at 35-39; Aron & Olson, supra note 45, at 91-111.
- ⁷³ See, e.g., annual reports of Illinois Coalition Against Domestic Violence (1996); Minnesota Department of Corrections (1993); and New Jersey Coalition for Battered Women (1992).
- ⁷⁴ Some battered women's shelters, such as Hubbard House in Jacksonville, Florida, already have reexamined this policy and provide separate areas for teenage boys, as need. *Emerging Programs*, supra note 19, at 22.
- ⁷⁵ Steinman, M. (1988). Evaluating a system-wide response to domestic violence: Some initial findings. *Journal of Contemporary Criminal Justice*, 4, 172-186; Steinman, M. (1990). Lowering recidivism among men who batter women. *Journal of Police Science and Administration*, 17, 124-132; Syers, M. & Edleson, J.L. (1992). The combined effects of coordinated intervention in woman abuse. *Journal of Interpersonal Violence*, 7, 490-502.
- ⁷⁶ Mathews, D. (1995). Parenting Groups for Men Who Batter. In Peled, Jaffe & Edleson (Eds.), *Ending the Cycle of Violence: Community Responses to Children of Battered Women* (pp. 106-120). Thousand Oaks, CA: Sage Publications.

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- ⁷⁷ Tolman, R. & Bennet, L. (1990). A Review of Quantitative Research on Men Who Batter. *Journal of Interpersonal Violence*, 5(1), 87-118.
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- ⁷⁹ Beeman, S., Hagemester, A. & Edleson, J.L. (1999). Child Protection and Battered Women's Services: From Conflict to Collaboration. *Child Maltreatment*, 4(2), 116-126.
- ⁸⁰ *In re Gault*, 387 U.S. 1, 4 (1967),
- ⁸¹ Children's Defense Fund. *A Children's Defense Budget: FY 1989* (p. 220) ("Many of these children are actually products of abuse, neglect, and extremely poor environments."). Washington DC: Author; Little Hoover Commission. (April 1990). *Runaway/Homeless Youths: California's Efforts to Recycle Society's Throwaways* (p. 3). Sacramento: Author.
- ⁸² Thornberry, T.P. (1994). *Violent Families and Youth Violence. Fact Sheet #21*. Washington, DC; U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *A Children's Defense Fund Budget*, supra note 81, at 222-3.
- ⁸³ Cal. Welf. & Inst. Code § 300.2 (West 1999).
- ⁸⁴ Kempe, C.H. (1961). The Battered Child Syndrome. *American Medical Journal*.
- ⁸⁵ See generally, Radbil, S. (1980). Children in a World of Violence: A History of Child Abuse. In Helfer and Kempe (Eds.), *The Battered Child* (pp. 3-30). Chicago: University of Chicago Press.
- ⁸⁶ 1990 Survey, National Committee on the Prevention of Child Abuse, Chicago, Illinois; Wang, Ching-Tung & Daro, D. (1998). *Current Trends in Child Abuse Reporting and Fatalities: The Results of the 1997 Annual Fifty State Survey*. Illinois: Center on Child Abuse Prevention Research.
- ⁸⁷ 42 U.S.C. § 671(a)(15)(1989); National Council of Juvenile and Family Court Judges, et al. (undated). *Making Reasonable Efforts: Steps for Keeping Families Together*. New York: Edna McConnel Clark Foundation.
- ⁸⁸ Some state laws focus on this as a form of child abuse. See, Cal. Welf. & Inst. Code § 300(b)(West 1999); *in re Heather*, A., 52 Cal. App. 4th 183 (Cal. App. 2 Dist., Dec. 24, 1996) (No. B095308), *review denied* (Mar. 12, 1007).
- ⁸⁹ See supra, the text accompanying note 3.
- ⁹⁰ See, *In re Heather A.*, supra note 88.
- ⁹¹ See, Utah Code Ann. § 76-5-109.1 (1999) (criminalizing the commission of domestic violence in the presence of child witnesses); Cal. Welf. & Inst. Code § 300(b) (West 1999); Cal. Welf. & Inst. Code § 300(a) (West 1999); ("...The Legislature further finds and declares that the perpetration child abuse of domestic violence in a household where a child resides is detrimental to the child.").
- ⁹² Since 1994, a majority of states have undertaken studies of court practice in child maltreatment cases, identifying key areas of need and recommending improvements. The court improvement programs were funded by the U.S. Department of Health and Human Services, under authorization from the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66). States electing to participate were to identify a state advisory group to guide the work of the program to improve court's handling of cases involving abuse, neglect, foster care, and adoption; assess current practice; develop a report of recommendations for court improvement; and implement recommendations. Bailey, C., Hamilton, F. & White, P. (1998) Summaries of Twenty-Five State Court Improvement Assessment Reports. *Technical Assistance Bulletin*, 11(3); Gray, E., Lewis, J.D., Mentaberry, M. & Bailey, C. (1997). Court improvement of foster care and adoption projects. *Juvenile & Family Court Journal*, 48(4), 31-41.
- ⁹³ National Council of Juvenile and Family Court Judges. (Spring 1995). *Improving Court Practice in Child Abuse & Neglect Cases*. Reno, NV: Author.
- ⁹⁴ Dobbin, S.A., Gatowski, S.I. & Jones, K.R. (1998). Judicial Leadership and Judicial Practice in Child Abuse and Neglect Cases. *Technical Assistance Bulletin*, 11(5); Edwards, L. (1992). The Juvenile Court and the Role of the Juvenile Court Judge. *Juvenile & Family Court Journal*, 43(2), 25-32; Edwards, L. (1997). Improving juvenile dependency courts. *Juvenile & Family Court Journal*, 48(4), 1-23; Hardin, M. (1992). *Judicial Implementation of Permanency Planning Reform: One Court That Works*. Washington, DC: American Bar Association, Center on Children and the Law.

⁹⁵ Davies, B., Ralph, S., Hawton, M. & Craig, L. (July 1995). A Study of Client Satisfaction with Family Court Counseling in Cases Involving Domestic Violence. *Family and Conciliation Courts Review*, 33(3), 324-341.

⁹⁶ Santa Clara County, Dependency Mediation, Domestic Violence Protocol; Cal. Fam. Code § 1815 (West 1999) (setting forth qualifications of supervising and associate counselors); Cal. Fam. Code § 3170 (West 1999) (providing for contested issues set for mediation; protocol for domestic violence cases); Cal. Fam. Code § 3181 (West 1999) (allowing for separate mediation where domestic violence prevention order). See *Family and Conciliation Courts Review*, 35(2), 160-163; Thoennes, N. (1997). An Evaluation of Child Protection Mediation Through Legislation. *Family and Conciliation Courts Review*, 35(2), 184-195. See also, Appendix B, Alternatives to Contested Litigation in Child Abuse and Neglect Cases, *Resource Guidelines*, supra note 93.

⁹⁷ National Council of Juvenile and Family Court Judges. (1990). *Family Violence: Improving Court Practice*. Reno, NV: Author; national Council of Juvenile and Family Court Judges. (1992). *State-of-the-Art Court Programs*. Reno, NV: Author; *Emerging Programs*, supra note 19.

⁹⁸ Cal. Gov't Code § 13959-13969.4 (West 1999).

⁹⁹ Cal. Penal Code § 1203.097 (West 1999) (mandating 52 week batterer intervention programs which must be by the local probation department).

¹⁰⁰ Hardin, M. (1996). *Family Group Conferences in Child Abuse and Neglect Cases: Learning from the Experiences in New Zealand*, Washington DC: American Bar Association, Center on Children and the Law; National Council of Juvenile and Family Court Judges. (1998). *Diversion Project Matrix: A Report from Four Sites Examining the Court's Role in Diverting Families from Traditional Child Welfare Services into Community-Based Programs*. Reno, NV: Author.

¹⁰¹ Child Abuse Prevention and Treatment Act, 42 U.S.C. §§ 51101-51107 (1974).

¹⁰² Cal. Fam. Code § 6303 (West 1999) (providing for a support person for victim of domestic violence).

¹⁰³ *Emerging Programs*, supra note 19, at 111.

Appendix A: Definitions

1. **Child maltreatment** is a general term that includes both child abuse and neglect. Within the concept of child abuse there is a distinction between physical abuse, sexual abuse, and emotional abuse. Child neglect includes physical neglect and emotional neglect or deprivation. The distinction between abuse and neglect frequently is understood to be the difference between “acts of commission” and “acts of omission.” In most states, child abuse and neglect are defined separately in both criminal and juvenile court statutes. The criminal statutes define which acts constitute abuse and neglect for the purpose of determining criminal responsibility and the juvenile codes define abuse and neglect for the purpose of protection of the child in juvenile proceedings.
2. **Child protection agencies** are the public agencies in each state mandated to receive, screen, and investigate reports of suspected child maltreatment from the community. If the allegations in the report are substantiated and a child protection case is opened, a caseworker also will assess the family needs and develop a plan for services.
3. **Child welfare services** are the array of services provided by the network of public and private agencies intended to help parents meet their child rearing responsibilities or, when this is not possible, to provide substitute care. In addition to child protection services, child welfare services traditionally have included homemaker services, foster care, adoption services, and institutional childcare.
4. **Child witness to domestic violence** is a term encompassing a wide range of experiences for children whose mothers are being abused physically, sexually, or emotionally by an intimate partner. It not only includes the child who actually observes his mother being hit or threatened, it also includes the child who overhears this behavior from another part of the home or is exposed to the results of the violence without ever hearing or seeing any aggressive act. Children exposed to domestic violence typically see their mothers’ bruises or other visible injuries, or see in their mothers the emotional consequences of violence such as fear or intimidation.
5. **Court Appointed Special Advocate (CASA)** is a specially screened and trained volunteer appointed by the court to conduct an independent investigation of child abuse or neglect and submit a formal report proffering advisory recommendations as to the best interests of the child. In some jurisdictions, volunteers without formal legal training, such as CASA, are appointed to represent maltreated children in the capacity of a guardian *ad litem*.
6. **Cross-training** is a process in which members of one system become exposed to the basic policies and practices of another system through training. Cross-training is used to improve cooperation and communication between professionals who traditionally have had little contact with each other. In this context, it is envisaged that the three systems dealing with domestic violence and child maltreatment will provide ongoing cross-training for each other on a periodic basis.
7. **Cultural competency** is the ability of practitioners to function effectively in the context of cultural differences.
8. **Domestic violence** is a concept with various names, such as wife beating, spouse abuse, intimate violence, battering, or partner abuse. It also has varying definitions depending on the context in which it is used. The clinical or behavioral definition is usually more comprehensive than its legal definitions. According to this broader definition, domestic violence is a pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks, as well as economic coercion that adults or adolescents use against their intimate partners. It typically does not include child abuse, child-to-parent violence, or sibling violence, which are considered forms of family violence. Although the narrower legal definitions of domestic violence vary from state to state, they usually do not include economic coercion or the many types of psychological abuse included in the clinical definition.
9. **Domestic violence coordinating council** is a useful tool for collaboration that has been emerging at the local, county, and state levels to improve the coordination of the many agencies, courts, and persons who respond to domestic violence. At the local and county levels, an influential member of the community, such as a judge or district attorney, typically chairs a coordinating council. Key persons from other agencies, departments, and groups usually comprise the remaining members. The hallmarks of a coordinating council typically include improved communication and coordination among the various systems, uniform data collection, standardized forms and reports, and the development of protocols and procedures approved by all participants in the various systems.

10. **Family court** is generally the court that has jurisdiction over dissolution of marriages, property division, paternity, child custody, visitation, and support issues. This type of court structure is often referred to as a Domestic Relations Court. In many locations the Family Court also may include child abuse and neglect, juvenile delinquency, domestic violence and/or probate matters. In these jurisdictions these courts often are referred to as Unified Family Courts.
11. **Family group conference** is a facilitated gathering of family members, friends, government and community specialists, and other interested people who join together to discuss child-related concerns and participate in decision making regarding the safety, care, and protection of the children at issue. This model focuses on identifying and mobilizing the strengths and existing resources of the family, the system and other involved community agencies, and individuals to provide long-term solutions regarding the safety and care of children. The process is usually multi-staged and includes private family time during which the family, after being presented with all pertinent case-related information, discusses these issues for the purpose of creating a care and safety plan for the child, which may then be offered to the child protection agency and/or the court. The process should include a specialized protocol for handling domestic violence cases to ensure the safety of family members.
12. **Family preservation services** are designed to serve families whose children are in danger of being placed outside the home or are returning home from care. These programs typically combine direct crises and counseling assistance with case management efforts that refer family members to material resources and therapeutic services provided by community organizations. Some models are short-term intensive programs that assign only a few families to each caseworker who works with each family in their own homes and is available on a 24-hour basis for 4 to 12 weeks. Other rehabilitative models provide less intensive intervention for a longer period of time. Family preservation does not mean necessarily keeping the entire family intact. In many situations, it may mean removing the perpetrator and keeping the non-abusive parent and child together.
13. **Family reunification** is the effort to reunify children with their parents after being removed by the child protection agency. Family reunification does not mean necessarily reunifying the children with the entire family; it may mean reunifying the children with the non-abusive parent after the perpetrator has been removed. The process of reunification involves a thorough family assessment, service plan, and the provision of services.
14. **Family violence** is a broader concept than domestic violence. It sometimes also includes child maltreatment and elder abuse.
15. **Guardian *ad litem*** (GAL) is a court-appointed individual who appears on behalf of a child's best interests in a legal proceeding. The Child Abuse Prevention and Treatment Act of 1974 requires states to appoint a GAL for children involved in juvenile court dependency proceedings as a condition for receiving federal funds. All states have enacted legislation requiring GAL representation for some or all children involved in juvenile court dependency proceedings. States vary greatly, however, in how the representation should be provided, who can serve as a GAL, how that person should be trained, and what role the GAL should play.
16. **Juvenile court** is that part of the trial court that addresses the needs of abused, abandoned, and neglected children. It is called by various names in different jurisdictions, but for purposes of this publication the term juvenile court is used throughout.
17. **Kinship care** refers to families in which a grandparent or other relative has taken over the care of a child because of the parent's absence or incapacitation. The relative may or may not have legal custody of the child.
18. **Mandatory child abuse reporting laws** are state laws requiring members of certain professions to report suspected incidents of child maltreatment to the appropriate child protection agency having responsibility for receiving and responding to these types of reports. Although early statutes singled out the medical profession for mandatory child abuse reporting, current laws typically extend this duty to many other professionals, including teachers, day care personnel, foster parents, social workers, psychologists, law enforcement, and marriage and family counselors. Over half of the state laws provide for criminal sanctions ranging from fines to imprisonment for the failure of these specified professionals to report.
19. **Mediation** is a confidential process conducted by neutral third parties who have no authoritative decision-making power over the parties. The goal of mediation is to assist parties in reaching their own mutually acceptable settlement of the issues in dispute. Mediation in child maltreatment cases focuses on facilitating resolutions that serve to preserve the safety and best interest of children and the safety of all family members and should include a specialized protocol for handling domestic

violence cases. Mediation in child protection cases has four basic interdependent stages: orientation, fact-finding and issue development, problem solving and agreement/disagreement and closure.

20. **Reasonable efforts** are the services required by the Adoption Assistance and Child Welfare Act of 1980 to prevent or eliminate the need for removal of a dependent, neglected, or abused child from her home and to reunify the family if the child is removed. The “reasonable efforts” requirement of the federal law is designed to ensure that families are provided with services to prevent disruption of the family and to avoid multiple foster care placements. To enforce this provision, the juvenile court must determine in each case where federal reimbursement is sought whether the agency has made the required “reasonable efforts.” The subsequently enacted Adoption and Safe Families Act of 1997 clarifies that “reasonable efforts” to preserve some families should not be required if there are “aggravated circumstances.” In these cases, although “reasonable efforts” are not required to reunify these families, courts must hold permanency hearings with 30 days of a child’s placement and reasonable efforts still are required to secure a safe and permanent home for the child in a timely manner.
21. **Safety plan** is an individualized plan battered women develop to reduce the risks they and their children face. These plans include strategies to reduce the risk of physical violence and other harms caused by a batterer and also include strategies to maintain basic human needs such as housing, health care, food, childcare, and education for the children. The particulars of each plan vary depending on whether a woman has separated from the batterer, plans to leave, or decides to stay, as well as what resources are available to her. Traditionally, advocates at local battered women’s shelters work with battered women to enhance their safety plans, however, increasingly child protection workers and others also have become involved in this activity.
22. **Service planning** is a goal-oriented service focused on behavior outcomes. Sometimes referred to as service planning or case planning, these plans identify and describe the responsibilities (legal and fiscal) of the social worker, the parents and/or family members, and the judicial system. At a minimum, they should describe the problems the family is facing, identify risks to the child, describe strengths of the family and child, and present the services and actions needed to achieve desired outcomes. For families in crisis, key services include substance abuse, domestic violence, health care, mental health programs, employment assistance, housing assistance, transportation, sexual abuse programming, parenting classes, support groups, and ongoing supports for chronic neglect situations. When the court is involved in a particular case, the orders of the court will require the family to participate in services or complete certain actions.